

OCEAN FREIGHT RATES FOR LUMBER EXPORTS

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

OCEAN FREIGHT RATES FOR LUMBER EXPORTS

MARCH 14, 1985

Printed for the use of the
Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1985

51-814 O

5261-46.

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OCEAN FREIGHT RATES FOR LUMBER EXPORTS

THURSDAY, MARCH 14, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Portland, OR.

The committee met, pursuant to notice, at 9:00 a.m., in the Conference Room of the Lloyd Building, 13th Floor, Port of Portland, 700 Northeast Multnomah Street, Portland, OR. Hon. Bob Packwood presiding.

Staff members assigned to this hearing: Peter Friedmann, staff counsel and John D. Hardy, minority staff counsel.

OPENING STATEMENT BY SENATOR PACKWOOD

Senator PACKWOOD. The committee will come to order, please. The hearing this morning, while I realize it is controversial, at least is not complicated. The carriers indicate that unless they can increase their charges for container traffic, they cannot operate in the black; and the shippers say if they increase the rates as much as they propose to increase them, they can no longer compete in markets that we are just starting to make good penetration into and can make greater penetration into. At least those are black and white issues.

This is not a hearing today, as far as I'm concerned, for me to take a position one way or the other. I've asked both of the sides to air their grievances. I'm hoping we can work out an accommodation that will satisfy both sides, but it is very clear what the positions of both sides are.

Our first witness is an old, old friend of mine and an old, old friend of Portland's. Punch Green, for years a very successful business leader in this community, has been chairman of the Federal Maritime Commission for 4 years now, and I can say, and I think no one would contradict me, that he has been, without exception, the best Chairman that Commission has had in recent years. Punch, we are delighted to have you and the members of your staff with you today.

I would ask all of the witnesses, if they could abbreviate their testimony, to do so. We have a good many. All of it will be in the record and I have a fair number of questions to ask.

Punch, welcome.

**STATEMENT OF HON. ALAN GREEN, JR., CHAIRMAN,
FEDERAL MARITIME COMMISSION; ACCOMPANIED BY
RUSTY JOHNSON, PERSONAL COUNSEL; BOB BOURGOIN,
GENERAL COUNSEL; AND DR. BOB ELLSWORTH**

Mr. GREEN. Thank you, very much, Mr. Chairman. I would like to, because of the position of the FMC., to read my testimony. I'll read it as rapidly as I can, but I think it sets the stage for all the subsequent testimony.

Mr. Chairman, I'm, of course, pleased to be here today to testify on the recent activities of the Transpacific Westbound Rate Agreement. With me today are Mr. Rusty Johnston, my personal counsel; Mr. Bob Bourgoin, the Federal Maritime Commission's General Counsel; and we also brought Dr. Bob Ellsworth, who is our lead economist at the FMC.

Senator, you have asked that I testify today on a matter which I know is of great concern to you as well as many other witnesses who will appear today. At the outset I would like to likewise express in the strongest terms possible the Federal Maritime Commission's concerns over the rate increases that have been agreed to by the member lines of the Transpacific Westbound Rate Agreement. In order to assure that you, as well as the public, have a full appreciation of the events to date, I would like to spend just a few moments providing you with some of the background which leads us to this hearing today.

One more point: my statement today represents not just my personal views—although I would be pleased to provide those to you, if you wish—but also those of all the other four Commissioners, and we have a five-man Commission.

TWRA was officially filed on November 21, 1984. No comments or protests were received and, after Commission review, it was allowed to go into effect after expiration of the statutory 45-day waiting period on January 5, 1985. Its membership now numbers 19 carriers and it covers the trade from the continental United States and Canada to the Far East and Southeast Asia. It provides for agreement on rates, charges and rules for the transportation of cargo to be published in a common tariff. Any party may take independent action on rates and service items, including service contracts, on ten days written notice. The agreement also authorizes the parties to enter into service contracts individually or jointly. The agreement also has a rate initiative procedure, which permits a member to propose a rate change by telex, which becomes the rate for the agreement if no member objects within three working days.

Finally, the agreement makes provisions as required by the 1984 Act for promptly and fairly considering shippers' requests and complaints, and for meeting with shippers to promote the commercial resolution of disputes, and otherwise expresses the parties' intention to promote and develop close communication and other relationships with shippers and consignees.

The justification accompanying the filing of the agreement stressed that the competitive features embodied in its rate initiative, independent action and service contract provisions exceeded the flexibility required by the 1984 act. This was reiterated in a subsequent meeting with agreement representatives during the 45-day processing period.

It is probably appropriate at this time to reiterate for the record the standard by which the Commission reviews agreements like TWRA. Simply stated, the Commission applies the statutory standard of section 6(g) of the Shipping Act of 1984, and attempts to determine whether the agreement will likely result in an unreasonable reduction in transportation service to the shipper or an unreasonable increase in transportation cost to the shipper. The Commission, mindful to a large degree of the criticism which in some cases had been justified, was reluctant to enter into the so-called crystal ball gazing of the past. Therefore, based upon the data presented by the parties and the data developed by the Commission staff, as well as a desire to let the new Act operate without unwarranted and unnecessary Governmental restraints, the Commission determined that TWRA would not likely contravene the section 6(g) standard. In very simple terms, the Commission in January of 1985 found no evidence that the initial operation of TWRA should be enjoined by a federal district court. A quick review of the Commission's analysis may be in order.

Because the agreement has no authority to regulate service, there was no legal basis for the parties to collectively reduce service. Therefore, the reduction of service component of the section 6(g) standard was not an issue. The Commission then considered the agreement's possible impact on the transportation cost to the shipper, or in this instance freight rates.

Although the agreement parties possess substantial market shares, given, (1), the over-capacity in the trades which was likely to continue because it is dictated by the cargo moving on the inbound leg; and (2), the immediate prior history of intense rate competition; and (3), the agreement's provision for independent action, rate initiative and individual use of service contracts; along with the presence of viable independent competition; sufficient check on unreasonable rate increases appeared to exist. As a result, the Commission decided not to challenge the agreement's operation under section 6(g) of the Act at that time. To enable us to monitor the rate initiative and independent action activities, however, we did secure the agreement of the parties to file quarterly reports relative to TWRA's implementation.

Subsequent to the agreement becoming effective on January 6, 1985, TWRA members met in Vancouver, British Columbia, and agreed to a revenue stabilization program. This program included a general rate increase and the imposition of minimum-per-container rates. Tariffs were subsequently filed at the Federal Maritime Commission that reflected the agreed upon general rate increase and minimum-per-container rates to become effective on March 6, 1985. The GRI—the general rate increases—filings reflected increases on per-container rates of \$150 to \$300 on nonrefrigerated cargoes. The precise figures

depended on size, origin and destination. A 10 percent GRI was established on refrigerated cargoes. Further, minimum rate levels scaled from \$750 to \$3,750 per 20-foot container, and \$1,000 to \$5,000 for 40-foot containers were also established. The \$1,000-per-40-foot-container minimum compares, for example, to previous charges in the \$400 to \$500 range.

Our review confirmed that these new rates and minimum rates levels have been uniformly adopted by the members of the TWRA.

The member lines also agreed that effective January 31, 1985, there would be a minimum charge established for any new service contracts or renewal of existing contracts entered into by any party, any combination of parties or the agreement. These minimum charges ranged from \$2,250 to \$5,000 per container. Finally, the lines also agreed that the agreement, under its existing authority, would maintain jurisdiction over exempt commodities and publish a private agreement tariff of all rates of all members on exempt commodities, such tariff to be available to the membership for information but not to be filed with the Federal Maritime Commission.

The proposed rate increases elicited a large number of protests from elements of the shipping community. Senator, these protests involve a wide range of commodities. Although approximately 75 percent of the commodities involve wood products, particleboard and wastepaper, the complaints also included objections to rate increases for waste metal, chemicals, agricultural products such as hay cubes, citrus fruits and frozen meats. Most of these are base commodities, for example, cargoes that have traditionally moved at the lowest freight rates. For the shippers of these commodities, the minimum revenue levels amounted to increases ranging from 50 to 150 percent.

Some shippers, particularly those in the lumber and wastepaper industries, maintain that new rate levels will have a devastating impact upon their businesses, and will cause the complete loss of some markets. These shippers maintain that the profit margins on their products are so low that the TWRA actions will remove all profitability from their exporting operations. Further, the increases allegedly cannot be passed on to the customers because foreign competitors will be able to supply adequate substitutes for most products at a more attractive price. Other shippers, such as exporters of agricultural commodities, object more strenuously to the timing of these increases than they do to the rate levels, per se. Sales contracts concluded on a quarterly basis have been affected adversely during the middle of a contract period. Cotton shippers in particular state that they were specifically advised by the carriers that rates would not significantly change for a period of several months.

Many industries claim that the TWRA action will have serious repercussions on the health of their businesses. It appears, however, that the problems of the lumber and wood industry are particularly acute at this time. Even without this burden, the industry has been afflicted with bankruptcies, layoffs and austerity measures. The pressures of Canadian and other foreign competition, much of which is not dependent upon

liner shipping, are already a serious threat to U.S. lumber. The industry contends that it cannot possibly absorb these industries and still hope to meet that competition.

Senator, our considerations of this entire matter justify these observations:

1. The agreement's earlier characterization of itself as a loose rate agreement with substantially more individual member competitive freedom and flexibility than required by the 1984 Act is belied by their actions regarding establishment and maintenance of minimums.

2. It is possible that by means of its rate increases the agreement has produced an unreasonable increase in transportation cost within the meaning of section 6(g) of the 1984 Act.

3. It is also possible that certain practices and activities of TWRA result in conduct specifically prohibited by section 10 of the act.

It should be emphasized that the Commission is deeply concerned about this entire matter. Earlier this week, on Tuesday, March 12, 1985, the Commission issued an order pursuant to section 15 of the 1984 Act directing the members of TWRA to file within 21 days detailed information pertaining to the formulation and operation of TWRA. This further information is needed to evaluate recent TWRA rate actions and to assist the Commission in deciding on appropriate future courses of action in this matter.

Possible future courses of action to which the Commission is now giving serious consideration include the following:

1. Seek injunctive relief against the continued operation of TWRA pursuant to section 6(h) of the 1984 act on the ground that TWRA is violative of section 6(g); i.e., that it is likely, by a reduction in competition, to produce an unreasonable increase in transportation cost.

I think it should be further noted that many of the complaints from shippers of commodities statutorily exempt from the tariff-filing requirements of the 1984 act have questioned TWRA's authority to fix rates on these exempted commodities. The same issue has arisen in connection with other agreement matters which have come before the Commission.

I think it should be further noted that many of the complaints from shippers of commodities statutorily exempt from the tariff-filing requirements of the 1984 act have questioned TWRA's authority to fix rates on these exempted commodities. The same issue has arisen in connection with other agreement matters which have come before the Commission.

2. Investigate pursuant to section 11(c), and/or seek to enjoin pursuant to section 11(h) of the act, TWRA and/or certain of its rate actions on the grounds that they may be violative of the prohibited acts provisions of section 10 of the act: (a) section 10(a)(2), which prohibits common carriers from operating pursuant to an unfiled agreement. (b) section 10(a)(3), which prohibits common carriers from operating in a manner not in accordance with the terms of their agreement. (c) section 10(b)(6), which prohibits one or more common carriers from engaging in any unfair or unjustly discriminatory practice. (d) section 10(b)(12),

which prohibits one or more common carriers from subjecting any particular person, locality or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and (e) section 10(c)(1), which prohibits a conference or group of two or more carriers from boycotting or taking any other concerted action resulting in an unreasonable refusal to deal.

In order to clarify this matter, the Commission this week is issuing a Notice of Inquiry concerning the status and treatment of exempt commodities under the Shipping Act of 1984. The notice addresses certain issues raised by voluntary tariff filings and conference ratemakings on exempt commodities, as well as the voluntary filing of service contracts covering exempt commodities. These issues are considered in light of an apparent congressional intent to deregulate exempt commodities. The purpose of the notice is to obtain public comment in order to assist the Commission in determining whether these matters may be addressed administratively. It may be, however, that these issues ultimately will require legislative clarification.

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Senator, as you mentioned in your very kind remarks in the opening in introducing me, in the over 3½ years, almost 4 years I've been Chairman I've attempted to be fair with all the entities we regulate, and to approach every situation in an unbiased manner. Some may say the only reason the TWRA action is offensive to me is because it hits the Pacific Northwest most acutely. I can say, however, that my concern would be as great if this hearing were held in Portland, Maine, as opposed to Portland, OR.

Let me conclude by saying that it's my personal view that as a practical matter no business, large or small, could tolerate rate increases of this magnitude over such a short period of time. While I recognize that the carriers as well as the shippers must charge a fair price for the commodity or service rendered, we appear to have a case in which a degree of responsibility on the part of the carriers may have been lost. I'm hopeful that we as an agency can resolve the existing immediate problems without the need for any further legislation.

Thank you, Senator. I've enjoyed being back in Portland. However, I wish it were under more pleasant circumstances. I'll be glad to answer any questions, sir, which you may have.

Senator PACKWOOD. Mr. Chairman, I notice in your testimony that you certainly lead me to believe that the conference has been less than forthcoming in giving you information you wanted.

Mr. GREEN. We have requested it on more than one occasion. I might ask our general counsel, Mr. Bourgoin, maybe he could answer it in a better way. We have requested that on a voluntary basis and it has not been forthcoming?

Mr. BOURGOIN. Yes, in our meetings with the carriers, the carriers expressed some concern that the Commission might make a decision in this case on the basis of shipper-provided information solely. We assured them that that would not be the case, and we stood prepared to consider anything they were willing to submit. There was some mention at that time of providing the Commission with certain cost information. To date, however, we have not received any.

Senator PACKWOOD. Have you received it as of the date of this hearing?

Mr. BOURGOIN. No, we have not, Senator.

Mr. GREEN. We talked to Washington this morning. We've not received it.

Senator PACKWOOD. Do you sense a certain "stick-it-in-your-ear" attitude?

Mr. BOURGOIN. I can't say that that's the situation. We're talking here about with 19 carriers of different nationalities and obviously different interests. There may be some difficulty in getting the carriers to provide this information on a voluntary basis. It may also be that they are concerned about setting a precedent in allowing the Commission to get into rate analysis.

Senator PACKWOOD. I'll bet you that if they weren't afraid the Commission was going to do something adverse to them, if they thought the Commission was going to do something to help them, you'd somehow get that information on a voluntary basis with no trouble at all out of the conference.

Mr. BOURGOIN. That has been our experience, yes, sir.

Mr. GREEN. I've noticed since July 1, 1981, that to be the case sir.

Senator PACKWOOD. Now, let me ask you, Mr. Chairman, these conferences, these are not formed out of the 1984 act?

Mr. GREEN. No.

Senator PACKWOOD. These are old, old conferences?

Mr. GREEN. Senator, when I became Chairman of the Federal Maritime Commission, we were operating under the Shipping Act of 1916, which had its base in the Alexander Committee.

Senator PACKWOOD. And but for your leadership we'd still be operating under the Shipping Act of 1916.

Mr. GREEN. Well, you're very kind to say that. I've had a lot of help. I'm happy to say that during my tenure we have the Shipping Act of 1984, yes, sir.

Senator PACKWOOD. The conferences could form under the old act, and we didn't take away their right to form the conferences in 1984. The carriers were delighted with the 1984 act, they may have given you awards and given me awards, I can't remember; but, I know they liked it.

Mr. GREEN. I got a couple awards. They might want them back.

Senator PACKWOOD. And we understood what we were doing. There was some argument about whether we should allow them to continue these cartels. Let's call them for what they are.

Mr. GREEN. That's right.

Senator PACKWOOD. These would basically violate the antitrust laws inside the United States.

Mr. GREEN. You're right.

Senator PACKWOOD. And there were some in the Senate who wanted to take that power away.

Mr. GREEN. That's right.

Senator PACKWOOD. And we said no because we compete in international spheres, and other countries do it and we've got to have some kind of harmonious relationship, and we allowed it.

Mr. GREEN. Right.

Senator PACKWOOD. But, we very clearly indicated to them that as we passed the 1984 act we did not intend to give them additional powers to abuse what could become monopoly powers if they all conspired together. There's no question the act intended that.

Now, lay out a little bit of what we tried to do in the 1984 act to give the shippers some powers that they didn't have before.

Mr. GREEN. Well, one of the things, of course, is independent action on a ten-day notice. That's one thing. The service contracts as they're designed were something brand new. And, of course, something which was very near and dear, I know, to your heart to protect the small shipper, and that was the shippers association was formed, was authorized. I'm happy to say that the shippers association seems to be finally getting going. That's for the small shippers, Senator.

Senator PACKWOOD. You know where we took this from, Punch, was out of the Staggers Act, in rail, where we allowed shippers associations to be set up. Down in Southern Oregon the Siskiyou Shippers, which are a number of the smaller mills down there, have formed their own shipping association to bargain with Southern Pacific. I can't say that everything is going harmoniously, but they've formed their association, there's a little give-and-take, but they're infinitely better off than they were.

Mr. GREEN. Absolutely.

Senator PACKWOOD. Even after the act had been in effect for a couple of years, I had to call it to their attention that they now had the power to do that, to gather together. I'm hoping the shippers here grasp the fact that there is some concerted action they can take which would not violate the law.

Mr. GREEN. I think that's right. It's early. It's one of these new things we're testing. It takes some time to form. I remember after the ceremony when the President signed the bill and we went to a party sponsored by the carriers, one very smart man, whom I won't mention by name here, said, you know, Punch, it's going to take a couple or 3 years before we see how this all does work.

I might add, also, that I think the shippers have a lot going for them in this bill. But, also, I think it's a ballanced Act, Senator. I really do. the antitrust immunity was clarified. That was all garbled up, as you know. Intermodalism was something which in 1916 never even—you know, who ever heard of it. Whoever heard of containers in 1916? That's the sort of stuff I was faced with.

Senator PACKWOOD. Yes, and it was presenting us with a difficult prolem when somebody in Osaka wants a quote to Topeka.

Mr. GREEN. That's right.

Senator PACKWOOD. And they don't want to have to go through the Interstate Commerce Commission and the Federal Maritime Commission, or the Civil Aeronautics Board or something else to figure out all of their different prices.

Mr. Green. Absolutely. So, this really is a balanced Act. As I say, I want to be careful what I say, but I think my testimony speaks pretty clearly where I'm coming from. I might add in the four years I've been there, and Mr. Bourgoin has been with the Commission for 20 years as General Counsel and before that as Assistant General Counsel?

Mr. BOURGOIN. Deputy General Counse.

Mr. GREEN. Okay, Deputy General Counsel. I never will catch on to the right titles in Government. But, anyway, as Deputy General Counsel.

Senator PACKWOOD. Punch, I have the same problem trying to figure our assistant secretaries and under secretaries and deputy assistants.

Mr. GREEN. I never have gotten it straightened out. Then they use initials instead of words and it just drives me up a tree. But, anyway, Mr. Bourgoin made the comment to me coming out on the airplane that he, in his 20 years, has never seen the Commission as uinified.

So, I feel, and I'm now speaking personally, I called a separate, closed meeting on Monady to get this 15 out. But, there were Democrats and Republicans, three Republicans and two Democrats on that Commission.

Senator PACKWOOD. Well, I know how the shippers feel. It isn't just this, either. In the Finance Committee on taxes you hear this over and over: give us some stability. You know, if you're going to change things, first give us a fairly long notice; then once you've done it, keep it the way it is for two or three years so we can depend upon it. But, don't go through year after year and month after month of changes that we simply can't predict or count on.

Mr. GREEN. Well, the problem here, and maybe this is a bad example, but I figure that I'm a businessman on loan to the Government. Now, I had a battery manufacturing plant. Now, I had a battery on the floor we'll say that manufactured for \$50. I could have

charged \$150, very easily have charged \$150 for it, but I never would have sold any because there were a dozen other battery manufacturing plants in the area that would be very happy to provide that same battery for \$50.

That's not the case here and that's the problem. I don't think I'm mistaken when I say this, I think that the 19 lines represent about 70 to 75 percent of the container capacity in this particular trade that we're talking about. In some cases I've heard as high as 90. Well, you've got to get that stuff overseas. You've got people that have contracts. It's an expense they can't absorb, and you know it and I know it.

Senator PACKWOOD. Well, Punch, I think you and I are saying the same thing. This cannot be allowed to happen in this kind of an abrupt fashion, period.

Mr. Chairman, thank you, very much. Fellows, we appreciate you coming out with him. I might say that he stole Rusty from the Commerce Committee when he became Chairman of the Maritime Commission.

Mr. GREEN. Smartest thing I ever did, I'll tell you that.

Senator PACKWOOD. As Punch was going through his nomination hearings he hadn't been before a hearing before, so we detailed Rusty to kind of help him through the hearings, show him what was going on. Next thing I knew, Rusty was gone.

Mr. GREEN. Thank you, Senator.

Senator PACKWOOD. Thank you, very much, Mr. Chairman.

Let's take Steve Newman, representing Columbia River Customs, Brokers and Forwarders Association. Good morning, Steve.

**STATEMENT OF STEVEN W. NEWMAN, ON BEHALF OF
COLUMBIA RIVER CUSTOMS BROKERS AND FORWARDERS
ASSOCIATION; PRESIDENT, PACIFIC COAST COUNCIL OF
CUSTOMS BROKERS AND FORWARDERS ASSOCIATION**

Mr. NEWMAN. Good morning, Senator.

Senator PACKWOOD. Good to see you again.

Mr. NEWMAN. Thank you. I'm also representing today, Senator, the Pacific Coast Council of Customs Brokers and Forwarders Association, of which I'm currently President.

Mr. NEWMAN. We want to thank you for the opportunity to express our views this morning. I should say at the outset that most of us—forwarders, shippers, as well as the carriers—agree that ocean rates are depressed and need upward adjustment. However, we emphatically disagree with both the timing and the size of the increases proposed by the TWRA.

As you know, most of his area's exports consist of low value forest, paper and agricultural products. Shippers' profit margins are very low. The strong dollar has already made it difficult for shippers to compete in world markets, and they've been able to remain competitive in some markets only because while the value of the dollar was increasing, freight rates have fallen.

I'd like to focus on these low value commodities which currently move at rates well below the minimums as proposed by the TWRA. The original minimums they proposed would have raised some rates by as much as 250 percent. I have some examples to illustrate the gradual decline in rates over the last 3 years. The first figure is the early 1982 per container rate and the second is the current rate. Lumber to Japan has gone from about \$1,125 to \$500; hay cubes to Japan from \$1,800 to \$430; pulses to Taiwan from \$1,200 to the \$450 to \$500 range; wastepaper to Korea from as much as \$1,500 to \$400; potato flakes to Japan from a high of \$2,500 to today's \$900; and cotton to Japan from \$2,100 to \$735.

The point is that these rates were gradually reduced over 3 years, and even the first step increases now proposed represent as much as a 100 percent increase. Most of these commodities simply cannot absorb these increases and remain competitive. Many markets will be lost to Third country suppliers. Wastepaper, for example, is de-inked, re-pulped and combined with virgin pulp to make new paper. The proportion of wastepaper to pulp depends upon the price of each commodity. As wastepaper prices rise, the mills simply increase the proportion of virgin pulp, and since most of this pulp comes from Scandinavia you can be sure that the pulp shippers there will be happy to increase their sales. Our wastepaper shippers here meanwhile simply have to wait until either the dollar drops or rates are reduced. The Koreans are presently sitting back waiting to see what's going to happen.

I'd like at this time to introduce into the record a telex received from Paul Crouch of Calcot, Ltd., in Bakersfield, California. Calcot is the California cotton cooperative which represents 3,500 cotton growers in California and Arizona.

[The information follows:]

Calcot, Ltd., March 13, 1985.

To: Steve Newman

Calcot, Ltd., representing 3,500 Calif/Ariz cotton growers, wishes to commend the FMC's aggressive actions in dealing with the newly formed cartel the TWRA.

We are concerned that the TWRA's new rate minimums are only a way to camouflage their true intentions of raising the rates to a level above normal market forces and to rate fix.

Between the strong dollar and foreign competition, US agriculture is fighting for its life. Recent sales of 300,000 bales of China cotton to Japan has further eroded our market share and illustrates that we can ill afford this cartel to artificially raise the rates to a level that will make us more noncompetitive than we already are.

Calcot requests that you continue your efforts to prevent export from being placed at the mercy of steamship carriers that will not entertain independent action below minimum rate levels established by a cartel such as the TWRA.

PAUL CROUCH,
Vice president, traffic.

We all expected to see changes in conference configurations under the new Shipping Act, but I wonder if any of us expected to be confronted by this monolith representing 85 to 90 percent of the available container space. We'd like to see the TWRA consult with the trade before trying to recover 3 years of rate reductions in 30, 60 or even 90 days.

The last point I want to address concerns forwarder compensation. Of the 19 current TWRA members, almost half traditionally paid brokerage of 2.5 percent. They now advise that: "Effective with the introduction of the tariff, freight forwarder compensation shall be established at 1.25 percent." This reduction, together with the loss of business we're sure to see resulting from the rate increases, will cause further economic harm to our membership.

Again, I thank you for the opportunity to be heard and I'll be happy to attempt to answer any questions you may have.

Senator PACKWOOD. Steve, I have only one question. A number of years ago the container rates used to be very close to what the carriers are talking about the rates being now.

Mr. NEWMAN. Yes, sir.

Senator PACKWOOD. Was the only reason we were able to compete then, and let's take wood products especially, the overseas wood market, was because the dollar was much weaker?

Mr. NEWMAN. I would expect so.

Senator PACKWOOD. But, you combine the two, and we just can't do it?

Mr. NEWMAN. Yes, sir.

That is correct.

Senator PACKWOOD. Thank you. I have no other questions. I appreciate it.

Now we'll take a panel of shippers. We'll put them all together, if we might. Mr. William McDonald, the President of KMJ; Mr. Adolf Hertrich, President, Vanport Manufacturing; Mr. Larry Kromer from Avison; Tom Fisher from Wood International; and Gary Adams from Marketor.

I might say that I visited Mr. Hertrich's mill, and it was at a time when American lumber companies contended they could not compete in the Japanese market, that their dimensions were wrong, their specifications were wrong and you couldn't get in. Mr. Hertrich was just going to two shifts, as I recall, at the time and was thinking of looking at another mill. I don't know if you bought the second mill or not. You were exporting to Japan in great quantities, but said you'd worked at it for 2 or 3 years and had lost money, as I recall, for the first 2 or 3 years at it, but were determined you could do it. You had some Japanese inspectors practically living with you for several years, although I think by that time they'd finally given up bothering you, realizing you could cut to their dimensions, your quality was good and they didn't bother you too much anymore, just bought your product.

Mr. HERTRICH. Thank you. That's correct, Senator. We have been operating two shifts since that time without any interruption, until right now.

Mr. PACKWOOD. I first ran across a problem you had with your teahouse and IRS, which was one of the more original problems I've run across. He'd built a Japanese teahouse at his mill, first to show the exposed lumber to the Japanese when they came over, to show how well he could cut. But, the IRS did not regard this as a necessary and

proper business expense. His argument was I'm selling in the Japanese market, and I want to show them what I can do with my wood, and here it is. We finally won with the IRS, but it was one of the more unusual problems I've gone around with.

Mr. MacDonald, why don't you start?

STATEMENT OF WILLIAM C. MacDONALD, PRESIDENT, KMJ INTERNATIONAL, INC., MOUNTLAKE TERRACE, WA.

Mr. MACDONALD. Thank you, Senator Packwood.

As you probably know, the lumber industry or the forest products industry as a whole is faced with a real and serious problem as a result of the recent actions of the TWRA. You've already heard some background on what they have done with the rate increases, but I'd like to note that simply the announcement itself of these dramatic rate increases has almost immediately disrupted our export trade. The recent rollback to slightly reduced levels really has not helped because even at those levels, it's made further trade and further bargaining almost impossible.

We have seen a disruption of the trade because of this minimum charge rule, and at the current levels of \$800, that's roughly an increase in real terms of \$15 to \$20 a thousand on green lumber, the major commodity going to Japan. Because of the market situation at this time, the customers cannot absorb that, the sawmills cannot absorb it and we certainly cannot absorb it ourselves as shippers. So, business is being lost right along.

Now, as an independent exporter, I'm doing business with mills in Washington, Idaho, Montana, California, as well as the Oregon mills that are represented here. Basically what's happened is that the only beneficiaries of the actions of the TWRA have been the Canadian shippers to date.

Senator PACKWOOD. They're subject to the same conference rules, though.

Mr. MACDONALD. But, there's a big difference. The major shippers, such as Seaboard and McMillan, have their own production, but they also ship on their own breakbulk vessels. Now, up until recently these breakbulk vessels have been sailing light very consistently. But, as of today they are completely booked through the end of April and at stable rates, rates that have not increased.

Senator PACKWOOD. Not increased from where they were?

Mr. MACDONALD. From where they were, right. In fact, they went down just prior to the announcement of the TWRA and have stayed at that same level through this whole commotion.

As a result, the Canadian shippers are aggressively approaching our customers and the customers of these other people there, and are taking business that we would normally have a good share of. We're losing business and, as a result, our sawmills are losing business.

The export aspect from the Northwest mills I'm guessing is roughly ten percent of production or some 600 million board feet a year. If we lose even a chunk of that, you're looking at say the production of ten, medium-sized sawmills. We can't afford to lose ten more sawmills out of this area, as I'm sure you know.

Basically, our contention is that the TWRA is violating both the spirit and the letter of the Shipping Act of 1984. This sudden and unreasonable increase in transportation costs is hurting us very traumatically. We have found that there is a very great reluctance to take any kind of independent action or even to negotiate. I personally have been stonewalled, I'm not getting any replies from my queries to the members themselves or to the TWRA.

As a result, the forest products shippers have formed the Western Shippers Group, which is a political action group, to work with the Federal Maritime Commission and our leaders such as yourself to try and correct this action. We have already petitioned the Federal Maritime Commission to file for an injunction under section 6(g). We have also asked them to continue investigation of what we believe may be violations of refusal to take independent action and negotiation.

We are here to back up those requests with written evidence and testimony as necessary, and we really hope it doesn't come to that, but we're ready to stand behind it. We would like to ask you to support us in this matter, which I'm sure you're already doing.

Really, what we desire is a free market situation, which we've always had and always lived with. We've been competitive in the export market under free market conditions. We've lived with it. It's served us very, very well. We have to handle all other aspects of our business in a free market situation. We cannot now face a monopoly and continue to be competitive in overseas markets. Basically what we really want is a return to the open rate, no minimum status that we've enjoyed over the years.

In closing, I'd just like to note that article 2 of the Transpacific Westbound Agreement states that the purpose of the agreement is to foster commerce, service and stability in the trade, and to maintain competition and the carriers' freedom of action. I'd submit that they've pretty much disregarded the purpose of the agreement in the actions they've shown us to date.

Thank you.

Senator PACKWOOD. Thank you. Mr. Hertrich?

**STATEMENT OF G. ADOLF HERTRICH, PRESIDENT,
VANPORT MANUFACTURING, INC., BORING, OR.**

Mr. HERTRICH. Senator, as you know, almost all of our lumber we produce is exported to Japan. We sell it in Japan f.o.b. dock in yen per cubic meter. Now, before we spent over \$1 million to remodel our sawmill to cut for export, we checked into, among other things, the ocean freight rates. What we found was that lumber is a nontariff item, that lumber freight rates are free to fluctuate with supply and demand. For example, when the dollar got stronger, and exports from the West

Coast to Japan decreased while imports from Japan increased, it created a severe imbalance in container loading. Incoming freight was loaded to capacity, while on westbound freight many times empty containers were shipped back. This, in turn, created competition among freightlines and the rates came down. This is proper, this is what you would expect to happen under a free market environment. This also served to offset, at least in part, the adverse exchange rate between yen and dollar which we had to face.

Now, however, if the westbound rate agreement is allowed to fix an artificially high minimum rate which would almost double our cost, we could no longer produce lumber for export. This is after we have been exporting now for 6 years steady, without interruption.

It's also difficult because since we remodeled our sawmill for export cutting, it's now no longer real efficient for the domestic market. So, it's difficult for us to move back to the domestic market, either.

We, therefore, urge that all minimums be removed, that lumber is a non-rated commodity, and the supply and demand of freight is free to operate in our system. We are willing to live with it if it is like this.

Thank you, Senator.

Senator PACKWOOD. Thank you. Mr. Kromer?

**STATEMENT OF LARRY KROMER, MANAGER, AVISON
INTERNATIONAL, AVISON LUMBER, MOLALLA, OR.**

Mr. KROMER. Thank you, very much, Senator Packwood.

The current situation, as it has been eloquently described by Mr. Hertrich, is certainly an impediment to our business into Japan and other markets in the Orient. Senator, we have a small company with 230 employees in south Clackamas County. Ten years ago, at the urging of the U.S. Department of Commerce and the state of Oregon, we embarked on a major effort to penetrate the lumber business into Japan, a trade which at that time was primarily based on logs. We've attained some degree of success with that business.

The single most important obstacle we had to overcome was building confidence with our customers that we would, in fact, be a long-term, dependable supplier, a very significant problem that many American exporters have suffered with over the years. We have crossed that hurdle. We have been supplying significant volumes to Japan on a steady basis. Now we are at a crossroads where our customers are asking us whether we can continue to be responsive to their needs.

The current timber relief bill took a large step in assuring our customers that in fact Northwest suppliers of forest products would be able to adjust to market levels, whatever they may be, in competition with other supplying regions in the world, of which there are many.

Now we're faced with an abrupt rate increase on ocean transportation costs. Customers and shippers are all aware that our major source of transportation is the liner trades, containerized freight to Japan. We have been assured over the last few years that this is a very viable method of transportation for forest products. There's been a significant increase in capacity added to the Pacific trade routes by the various

member lines who serve it. There has been a great amount of additional service added to the Northwest in particular in the last 2 or 3 years. At the urging of these lines, we have continued to develop stable markets in the Orient, predicated on containerized freight which has allowed our company to attain some level of stability in an industry which, as is well documented, has been very, very difficult.

Now we are faced with an environment in ocean freight that tends to subvert the confidence that our customers have in our ability to supply at market levels. The supply from our Canadian competitors is a much more stable base for customers when they perceive the ongoing 6-month, 12-month, multiyear supply outlook. We are forced here in the Northwest to operate with a fluctuating raw material cost; we are forced now with evidently a very fluctuating freight rate cost; unfortunately, we are forced to live with what appears to be a very strong dollar at this time, at any rate highly fluctuating currency exchange rate. We have been able to survive within that environment. What we request of this committee is your influence with the TWRA to allow that same free and open environment to exist so that we can continue the advances we've made in penetrating foreign markets for forest products.

I would be interested in knowing from the TWRA a major point of confusion. Under the 1984 Shipping Act, it is my understanding from what Mr. Green indicated this morning that I can sit down with any member line and negotiate whatever terms of shipment which we may mutually arrive at. If that is in fact the case, we would be very satisfied with the current TWRA posture. Senator, that is not—

Senator PACKWOOD. What you want to know is if they have illegally conspired together to say we will not agree on any independent action, any one of us?

Mr. KROMER. If, sir, it is illegal to do that, then that's what I would like to know, yes.

Senator PACKWOOD. It is illegal to do it, to conspire to do it. Your production is about half for the Japanese market?

Mr. KROMER. We are approximately 50 percent to Japan, yes.

Senator PACKWOOD. And you've got about 250 employees?

Mr. KROMER. That's correct.

Senator PACKWOOD. Thank you. Mr. Fisher?

STATEMENT OF THOMAS C. FISHER, PRESIDENT, WOOD INTERNATIONAL CORP., PORTLAND, OR.

Mr. FISHER. Thank you, Senator.

Though I can't speak as eloquently as my colleagues, nor do I have a legal mind, sir, that can understand all the legalities and ramifications of the Shipping Act, I do come to you this morning as a small, independent, Oregon businessman vitally concerned with the export business already lost and the potential for further lost export business in the forest products trade as a result of the announced freight increases by the TWRA.

Specifically, my company is involved with the export of particleboard from the Roseburg Lumber Company and medium density fibreboard from the Plum Creek Timber Company. Although we provide an export marketing service for these mills, I can speak for many of the panel products producers in Oregon who over the past 4 years have devoted considerable time and expense to developing and penetrating the Far East markets in order to complement domestic business. Specifications and products were changed to meet the demand of the Korean and Taiwanese buyers.

As Mr. Gottshall I'm sure is aware, the Northwest forest products companies are in serious trouble, and many producers need to be in the export business. Oregon panel products mills affected by this freight increase include Boise Cascade's mill in Baum, Oregon; Bohemia's mill in Eugene; Willamette's mill in Albany; Roseburg's mill in Dillard; and Medford's mill in Medford.

Many of our buyers have fixed price contracts with their customers here in the United States and Europe for furniture made from our m.d.f. and particleboard. Therefore, they are not in a position at this time to accept price increases for the raw materials for their production. I would like to put into the record following this hearing telex's showing that since these increases were announced, Northwest business has already been lost to competing mills in Chile and Indonesia, specifically 4,000 cubic meters of particleboard to Chile and 2,000 cubic meters to Indonesia. New Zealand and Australia will also take medium density fibreboard business away from our mills here in the Northwest.

When the TWRA announced their rate increase, we advised the ship lines with whom we dealt that the rates would not allow us to compete with our products in the Far Eastern markets. I'd like to put into the record an analysis showing that Indonesian particleboard has, since the TWRA announcement, been sold to Korea at the same price levels we had been selling at prior to the announced increase. Our freight rate at that time was \$640 per 40-foot box. Every \$100 increase in freight rates raises our price by \$5, making us uncompetitive with the commodity particleboard and fiberboard we sell.

Ship lines would not commit to any rate other than the \$1,000 minimum. Agents told us they had been instructed not to accept any bookings below \$1,000. I ask Mr. Gottshall: where is the independent action?

My company has already lost 90 containers of business since the TWRA rate increase announcement. Our buyers have been unwilling to accept the increases and unwilling to accept the freight fluctuation clause. Ninety containers amounts to approximately \$500,000 worth of revenue this state's forest products industry needs.

We aren't the only ones who have lost business. Our stuffing facility, Morgan CFS here in Portland, which loads our containers currently handles 700 40-foot containers per month of forest products. They estimate that if these rates go into effect, their business will be reduced down to 100 containers per month. Their business right now is well over 30 percent decreased from what it was prior to the TWRA announcement.

I've told you, sir, I'm not an attorney and I'm also not an accountant. When the lines tell me they can't take bookings at these rates because they'll lose money, that they'll operate at a loss, I remind them that when we paid \$1,200 per 40-foot container in December, 1982, and the rates were coming down because of a free market economy, they said rates couldn't go lower because they'd lose money and operate at a loss at that time. It sounds like crying wolf.

I'd like to advise Mr. Gottshall that the rate increase he proposes and that TWRA proposes, it's not only the rate that hurts, it's the way they've gone about it that stinks. Whenever you upset as many people as he has and the TWRA has with these actions, something in his heart should tell him that he has made a mistake. We are vitally concerned because it is our jobs and our companies that are threatened by foreign competition. Terminals, freight consolidating yards, brokers, truckers and mills all stand to lose. The way in which the TWRA has gone about handling this increase reminds me of an employer whom I once worked for. He wanted higher profits, so he called his traders together and said, men, from now on, when you sell into the international markets, rather than taking your costs and multiplying them by 104 in order to generate a four percent margin, I want you simply to multiply by 105 and make a 5 percent margin. It's all so simple That employer is no longer in business and I hope that the TWRA doesn't do that to us.

I'd just like, sir, to make one final point. On February 7 I sent a telex to Mr. Gottshall and Mr. Green, and on February 20 sent a letter to yourself with a copy of that telex. You were kind enough to respond to that telex, as was Mr. Green, and to date I have heard nothing from Mr. Gottshall nor any of the carriers with whom we have dealt regarding the telex I sent.

Senator PACKWOOD. Mr. Adams.

STATEMENT OF GARY B. ADAMS, PRESIDENT, MARKETOR CORP., PORTLAND, OR.

Mr. ADAMS. Thank you, Senator.

I'm Gary Adams. I am the President of Marketor Corporation. Prior to that, I was the President of U.S. World Trade, the export trading company for U.S. Bancorp. I'd like to say that we export both logs and lumber; we are not strictly a finished products interest. We feel, however, that this action by TWRA will irrevocably damage the lumber export industry in the Northwest.

First I'd like to make a point on the fact that we are relatively sophisticated shippers. Our main business, our base business, is the export of lumber, in which (from Oregon alone) we export 500 40-foot containers a year. We also, however, export logs. We have exported logs from Canada, Alaska, the U.S. west coast, and hardwoods from the U. S. east coast and gulf. We've even exported logs, 110,000 cubic meters, from Chile to Japan and Korea. Additionally, in the last year we have exported salmon, halibut, perch, bass, and salmon eggs from Alaska to Japan and Europe. We've operated and chartered our own factory ships to process these fish in Alaskan waters.

Also, we have imported coffee from Africa and sold it to Hills Bros., Nestle's, Boyd Coffee, and other major roasters. We shipped coffee directly from Africa to Japan where we sold it to Mitsui. Additionally, we import frozen prawns from the People's Republic of China and sell those in Los Angeles, San Francisco, Houston, Portland and Seattle. So, although we are a local Portland company, we are certainly not a provincial interest nor a narrow company crying for relief.

However, our basic business for 15 years has been the export of lumber, and to that extent I'd like to explain how this proposed action is going to adversely impact the export of lumber. It's been public policy to promote the export of lumber, and what I want to talk about here are market mechanisms, if I can use that phrase, so you can understand exactly how this action will disfavor lumber export in favor of log export. Now, we don't personally care, lumber or log, but I think the public policy for the region favors value added, so you should know what's going to happen if this action continues.

First of all, the proposed TWRA activity favors the Canadian lumber exporters. It's already been testified that they ship by bulk carriers on negotiated rates. These rates are very competitive. They follow a worldwide tonnage market for wheat and other bulk commodities. There's nothing unilateral or capricious about the rate-setting process. It's an open market mechanism.

Secondly, let's just talk about lumber versus log in the eyes of the foreign buyer. Number one logs travel bulk at low rates.

Number two, logs are relatively simple. There are very few grades, sizes and lengths. The logs are raw material, whereas lumber or panel products are finished products, they have many widths, thicknesses, lengths and grades -very complex.

Third, logs are easy to store in the foreign country, you can store them on water, or on land in an open field; whereas lumber must be on land and in a warehouse environment usually.

Fourth, logs have a longer shelf life. They'll keep on to 2 years, versus a maximum of about 6 months for lumber.

Last point, logs have a shorter lead time in the market. A Japanese sawmill can deliver exact sizes and grades requested by a builder or customer in 1 to 2 days, compared to the 2 to 3 months that it takes for an order to be received in the United States, processed at a large mill such as these gentlemen have, and then delivered to a customer in Japan. Two to 3 months versus a matter of days.

An active, thriving container service like we have had is the key to continued growth in the export of higher value added commodities because it allows a steady flow of lumber from small to medium-sized mills. It allows them to sell directly to small and medium-sized wholesalers and builders in Japan. American mills can and do compete well in this market. We've talked about Adolf's growth and Avison's growth, and there are others. We are competing, we are penetrating that market favorably. But, we need to have a steady and reliable container service. Two words: "steady," "reliable."

What this essentially does is allow a user or builder in Japan to buy a truckload or carload.

Senator PACKWOOD. Let me interrupt for a moment.

Mr. ADAMS. Yes, sir.

Senator PACKWOOD. You said "container," and yet earlier on some of the earlier witnesses talked about the Canadian advantage because they'll ship bulk.

Mr. ADAMS. Yes.

Senator PACKWOOD. They're not going to be shipping by container. Aren't they stuck with the same conference rules that we're stuck with.

Mr. ADAMS. No, no, they're not. The Canadian lumber industry is dominated by a single entity known as Seaboard Lumber of Canada and a second known as McMillan-Bloedell. These companies have their own bulk, roll-on, roll-off shipping. They are not dependent upon open—

Senator PACKWOOD. No, I understand they're not dependent, but Canada is subject to the same conference rules.

Mr. ADAMS. Yes, but the container volume out of Canada is nil compared to here.

Senator PACKWOOD. Okay.

Mr. ADAMS. Because most of the mills belong to these large cartels, if you will, and they have their own shipping. Only a few of the smaller, independent mills are dependent upon the container lines.

Essentially what we're saying is that with container service a customer in Japan can buy a truckload or carload quantity, whereas if he's dealing with a large Canadian shipper or with a log transaction he must buy an entire trainload. For example, a log ship or one of these bulk carriers is the equivalent to about 1,000 truckloads of lumber or 1,000 containers. That would be about the equivalent volume. So, it limits the number of buyers. You have to be a very large Japanese trading house to buy in these kinds of quantities, whereas now even a small buyer can come to Adolf or to any of us and buy a truckload or five truckloads of lumber. So, it increases the access into the secondary and tertiary levels of the Japanese market and into the American market. It literally makes it possible for that man you mentioned earlier in Osaka to ship to Topeka, whereas if he had to charter a whole ship he wouldn't do that, and to lay his own railroad track, he wouldn't do that.

If your purpose is to nurture the export of lumber, we recommend you look very hard at TWRA in two areas, particularly. One is the notice. It is very, very important to have a quarterly pricing cycle in the area of lumber. It takes that long to get an order in here, to get it processed, cut, shipped out and delivered. The stuff isn't sitting "on the rack." It isn't just there waiting to be bought because of the shelf life problems. So, a shipper or a mill needs to know 2 or 3 months ahead what his freight rate is going to be. The prices have always followed a quarterly cycle, and yet in this case TWRA has just capriciously jumped into the middle of a quarter, tried to change prices around, and backed off only when the pressure became excessive.

We all have a gross fear, I'm sure, that they will do this again at any time in the future, and I think most of us are afraid to take a quarterly contract right now. We don't think a lot of their veracity, considering the promises that were made in December and January and reneged on just immediately afterwards.

Second is the failure of independent action. It needs to be looked at. All of the lines say that they cannot break solidarity—sounds like a Polish labor union, but they can't break solidarity with the conference, and all this kind of thing. Well, we're certainly sympathetic with their need to make a profit, Senator, but this ganging up of 85 percent of the capacity of a vital service link is just unconscionable. The sales people that actually book the cargo claim they're just following orders, they can't break rank. It sounds like the S.S., they can't break rank here.

Let me go back to my prepared testimony. It's simply inconceivable that a country or Government that produced Judge Learned Hand and the Alcoa decision could allow 85 percent of the capacity in a vital service industry to form a cartel and act with impetuous impetuosity. Lumber does need these stable prices, it needs the relationship between small producer and small buyer, and this kind of consolidation of power, acting as they are—"this is the law, you will follow it; this is the program, you are there"—we can't handle that, Senator.

There is no confidence on the part of buyer or seller to make a contract with the lead times that are required to consummate this business; therefore, this action is going to flow directly back to logs. That's where the foreign buyer can have his logs there for 6 months, he has the confidence, he's got them, and that's what's going to happen.

That's fine, we'll sell the logs, too, but that isn't a lot of jobs in this state. Thank you.

Senator PACKWOOD. Why wouldn't bulk shippers come here if the liners raise their container rates? Why won't the bulk shippers come here and take lumber at lower rates?

Mr. ADAMS. Bulk shippers will come in given enough time. What will happen is immediately the TWRA or any such conference will cut their rates to keep them out—see, they're making their money on the inbound cargo, high revenue stuff. This is simply a backhaul. So, the bulk carriers know that at any time they want to, these container lines can cut the westbound rate below what the bulk carrier needs to operate and drive him out of the trade. "It impedes entry" is the antitrust language there. A bulk carrier is not going to come in, make the terminal arrangements, the berthing arrangements, the marketing commitment, just to have the rug pulled out from under him in 30 days.

Senator PACKWOOD. Do you think the conference has conspired to prohibit independent action?

Mr. ADAMS. Oh, absolutely. I have written copies of that that I've sent back to the FMC.

Senator PACKWOOD. You think they've illegally conspired, then?

Mr. ADAMS. The law in this state is called "interference with contractual process" when you encourage someone to break a service contract.

Senator PACKWOOD. When did you send the information to the Federal Maritime Commission?

Mr. ADAMS. A week ago.

Senator PACKWOOD. Okay. When did you send the telex you didn't get the response to from Mr. Gottshall?

Mr. FISHER. February 7.

Senator PACKWOOD. When?

Mr. FISHER. February 7.

Senator PACKWOOD. And you've had no answer yet?

Mr. FISHER. No, sir.

Senator PACKWOOD. And the Federal Maritime Commission has had no response from them yet, either.

Mr. KROMER, let me ask you, you said about half of your output is Japan?

Mr. KROMER. Yes, Senator, that's correct.

Senator PACKWOOD. Are you in the same position Mr. Hertrich is, that it is not easy to convert back to domestic markets once you've started cutting for Japanese markets?

Mr. KROMER. Largely, that's true, Senator. We've invested in excess of \$4 million in an entirely new processing facility which is geared to the offshore market, primarily Japan. Export lumber is all treated by a process to avoid staining during shipment. We recently have invested over a third of a million dollars in a new treating facility to comply with the very stringent requirements of the EPA to handle that material in what we hope will be a very safe manner. Our investment in that market and the commitments we have made to it, both in terms of dollars and time, effectively would prohibit a company of our size, with our financial resources, in walking away from it. It's a market we believe has a longterm future. Our customers believe there's a longterm future and, as a matter of fact, most of the member lines of the TWRA whom we deal with specifically believe that we provide a very viable cargo and fulfill a very viable need for them to ship lumber from this region to Japan. Many of those lines have indicated they would like to continue to discuss with us one on one our needs and their needs, but their understanding of the TWRA restrictions is that they cannot do that. Hence, my question about independent action.

Senator PACKWOOD. Let me ask you a further question, any one of you can answer if you want. You were faced with rates of \$800 or \$1,000 on containers several years ago, but at that time I take it the rates were competitively arrived at, not by conference dictum.

Mr. KROMER. That's right.

Senator PACKWOOD. So, your real complaint is not the rate, but the conspiracy.

Mr. KROMER. That's correct.

Senator PACKWOOD. And that you would be perfectly willing to accept rates this high or higher if they were competitively arrived at?

Mr. KROMER. That is very correct, Senator.

Senator PACKWOOD. Now, let me go down the line, starting with Mr. Adams, and ask if you all agree with that.

Mr. ADAMS. Yes, I very vehemently agree with that. I would caution you, however, that if you try to apply those rates of a year ago against where the dollar is today, you will very quickly cause what Mr. Fisher's testified to, which is a complete dryup of American shipments.

Senator PACKWOOD. I understand that. I want to make sure that your complaint is the conspiracy to fix the rates.

Mr. ADAMS. Absolutely.

Senator PACKWOOD. And that if competition indeed produced them at \$1,200 a container, but it was competition you wouldn't complain. You'd still complain about the dollar and that's a justifiable complaint, and that is more the Government's fault than your fault.

Mr. ADAMS. Absolutely. Totally agree that we would follow that system.

Senator PACKWOOD. Agreed?

Mr. FISHER. No question about it. We had a negotiation taking place for a time/volume contract that was just cut off, and they told us they could no longer talk.

Senator PACKWOOD. Okay. Adolf?

Mr. HERTRICH. I agree with this 100 percent. If it is allowed to follow the market, under the current conditions the proper rate level for containers would be about \$500 considering how many empty containers go back. In the absence of a cartel fixing the price, you normally would expect this rate to prevail for the foreseeable future, as long as the dollar is so strong.

Senator PACKWOOD. What's the difference between independent action and competitive ratemaking as far as you're concerned?

Mr. HERTRICH. There is pressure on the individual member of the agreement to hold the line, and there is tremendous pressure on the individual lines not to break solidarity.

Senator PACKWOOD. Well, we will get to that with the next panel. But, I didn't let you get a chance to answer.

Mr. MACDONALD. Basically, we have to compete in a free market situation. That includes lumber prices in Japan, raw material costs over here and the transportation costs in between. As long as we're competing freely in all of those aspects, and if the freight rates go up and down because of competition, we can live with that. We have to live with that. That's part of our situation. So, my answer is basically yes, if the rates were higher but competitively set, we would be able to live with that. And they have been higher, but—

Senator PACKWOOD. You'd still have problems with the dollar, but that is not a problem caused by the shippers.

Mr. MACDONALD. Right.

Senator PACKWOOD. That's caused by the Federal Government.

Mr. ADAMS. We're simply talking a level playing field.

Senator PACKWOOD. I understand exactly. 'Gentlemen, I have no more questions. Thank you, very much. I appreciate it.

Now we'll take Frederic Fisher; Ronald Gottshall; Timothy Rhein; and I believe we have a representative of the Y.S. Lines.

Mr. FISHER. That's correct. May we have a moment just to set up? We brought along a couple of charts that I'd like to put next to the wall, over here.

Senator PACKWOOD. Yes, that's fine.

[Short recess.]

Senator PACKWOOD. Mr. Fisher.

STATEMENT OF R. FREDERICK FISHER, ATTORNEY, SAN FRANCISCO, CA.

Mr. FISHER. My mechanical abilities in getting things to adhere to walls seem to be marginal this morning, but I think we've got it.

Senator PACKWOOD. You're going to speak on behalf of both yourself and Mr. Gottshall?

Mr. FISHER. No. Actually, what we'd like to do, if you please, Senator, is I'd like to speak first just to introduce a couple of basic points. Then Mr. Gottshall will speak. Then Mr. Rhein. Then we will ask that we be allowed to answer any questions that you or counsel might have as a panel, or as you see fit.

Senator PACKWOOD. Good, go right ahead.

Mr. FISHER. First, I should tell you I drafted the agreement. I drafted it in 1983. I have been to most of the meetings where most of the actions are taken. I guess I'd tell you to start with that the reason I go to the meetings as counsel is to answer questions the parties may have as to what they're allowed to do and not do under the law.

Senator PACKWOOD. You are counsel to the conference or counsel to whom?

Mr. FISHER. To the TWRA.

Senator PACKWOOD. Thank you.

Mr. FISHER. And the purpose of my being at the meetings, of course, is to make sure that the parties have somebody there to advise them if a question comes up as to what's lawful or not.

Since a question has arisen of whether there is some kind of agreement not to take independent action or not to enter into service contracts, I guess that's a charge that I didn't do my job, or something, because my job is to be present and be sure the parties do comply with the law. I think I did do my job, I think the parties heard me and I think they carried out my instructions.

In the normal case of conference ratemaking, and I have been involved in advising conferences since the 1960's, people sit down, meet, agree upon rates, publish those rates in tariffs; and, if their agreement provides for independent action—and there are some agreements that have for years, even prior to the new Shipping Act—a party takes it or doesn't take it as he sees fit. Because we were hearing

these allegations being made, we went out of our way, each time the parties agreed on anything, we kind of got to be like a Greek chorus, Mr. Gottshall or I would say "but, this is subject to independent action." So, you are reminded of this.

Subsequently, we got more flak on the subject and we have gone so far as to put in each set of minutes so that the official record of the meetings actually reflects the repetition of what's in the agreement, which is the right of independent action.

Senator PACKWOOD. Mr. Fisher, I hear what you're saying, but —

Mr. FISHER. I'm not quite sure what else we can do on that subject.

Senator PACKWOOD. —I used to draw corporate minutes, also, and I recall exactly what we used to put in minutes to prove what we agreed to.

Mr. FISHER. So, the point of it is that at each stage each decision was taken, this was reviewed by the members and they were reminded of this provision in the agreement and their right to take i.a.

I think there is some confusion here between a right which is a carrier's right to exercise if he sees fit in his economic self-interest, and the exercise of the right. Now, as Mr. Gottshall will tell you, and he has the statistics, since this agreement began the number of independent actions and rate initiatives, which is a different form of independent action, reducing rates numbers in the thousands. I think it's about 2,500, isn't, Ron?

Mr. GOTTSHALL. Yes, it's approximately 2,500 independent actions.

Mr. FISHER. Since the beginning of this agreement. As to the minimums that were agreed upon and now have been reduced, they haven't gone into effect yet so we don't have any experience. Obviously if you have a minimum, rate or a rate on any commodity and someone takes independent action on it, it isn't very long before you no longer have the rate, or the minimum, or whatever it is. So, obviously, our hope is that nobody will. If too many people do, then the minimum either becomes something else or there's none at all. Same with a rate on a commodity.

But, I have little doubt, in fact I have considerable confidence, that as parties determine what their self-interest is as to particular rates, they will exercise independent action. I can tell you, and I'm not going to name the carrier's name, that at the meeting we just had in Honolulu a carrier stated at the table there's something about this minimum on a particular product and size of container that I don't like, it should be lower. He didn't get his way and he said I'm going to take independent action, then. So, recognizing he was going to do that, that particular minimum was lowered. Now, he didn't go ahead and take it because the parties accommodated him. I submit that's the way it's supposed to work.

Now, what I'd like to do is just trouble you a little bit with the facts here. We think the facts support our position. I think we're going to show that in a minute. I would like to make one comment about Chairman Green's presentation. At this point we find ourselves in a serious adversarial position.

His Commission has issued an order directing us, basically as a pre-litigation stance to engage in pre-litigation discovery of our files and documents. I disagree very strongly with some of his remarks, but I want you to know that in doing so it happens that I agree with your opening remarks about Punch Green's tenure. I've been practicing before the Commission since 1964. He's the best Chairman we've had. One of the signs that he's a good Chairman is he's had a very good staff. He has brought to the Commission a lot of morale, a lot of competence. Brother Bourgoin here, my compatriot whom I've known for many years, has done an excellent job so far. While I don't happen to like some of the things they're doing, quite frankly I think they're giving way to being a political weather vane instead of paying attention to facts, I must say that the taxpayers are getting their money's worth. I must say that Rusty Johnson, who's been very hard on us, has done an excellent job of playing his cards, a highly professional job.

Senator PACKWOOD. Let me make sure I understood something you said earlier; though. You do not plan to supply the Federal Maritime Commission with the information they've asked for because this is not a discovery proceeding, you do not want to give it away before an adversary proceeding? What was it you said?

Mr. FISHER. Oh, no, I said that the Commission had commenced a proceeding which is under section 15 of the act and is styled as a pre-litigation form of discovery. They're considering suing us for injunctions and various things. This is to cough up information that allows them, one, to decide whether to sue us and, two, to get information to use if they do sue us.

Senator PACKWOOD.— Well, do you plan to provide them with the information that they've apparently asked for?

Mr. FISHER. Well, to be honest with you, I've only quickly read it. I'm not even sure that they've asked for yet. I have no doubt we'll provide what we can provide that's responsive to that order and is within section 15 of the act.

Senator PACKWOOD. As I understood the Chairman's testimony, he indicated that the shippers had provided them by and large with all the information they wanted, but that you or the agreement had been rather less than forthcoming with giving your side of the argument to them in terms of whatever facts it is they were asking for.

Mr. FISHER. I'm glad you asked because I might have forgotten to address that. That's one of the things I wanted to take issue with.

I'll call on Bob Bourgoin, who is an honorable guy and I've known for years, to back me up on this. There is nothing, not one thing, we've been asked for to date that we've not supplied. In fairness, we've not been asked for anything. Specifically with respect to cost data, Mr. Bourgoin told me on the telephone, and this is an approximate statement, not a quote directly, we've decided not to ask you for cost data.

Now, we have provided a lot of stuff because we first went in trying to explain to them why this agreement should be allowed to go into effect. We provided what looks like this (holding up booklet), in fact

this is it, this is what we provided to the Commission when we filed the agreement. None of the material that I'm going to show to you today have they asked for. There's nothing, in fact, that they have asked for that we haven't supplied. I'm not even aware that there's anything they've asked for.

Now, let's come to the order that they issued Friday. Friday night I got a copy of the section 15 order. I've not really had an opportunity to even focus upon it because I've been getting ready for this hearing. It is true that we've not responded to that, but we still have 28 days to respond to it. So, it's not due yet. I don't know what our response is. I'm sure we'll be giving information in response to it.

But, there is no oral or written request that I know of for facts or information outstanding as to us right now, and I'm quite confident Bob Bourgoin will not contradict me on that.

Now, as I said, I'd like to get to some facts. It may take a few minutes, but I've gone to quite a bit of effort with the parties to come up with some of this information. It's not exhaustive, but it's designed to give you an idea of what we're facing and what the facts are that we have to live with. Is it all right if I stand to point to the exhibit on the wall? I'm going to give you copies of this in case you'd like your own. I'll leave some up here if others would like it. This same document is up on the wall here, Senator, and I'll speak from this, although you can look at the one in your hand.

Basically, what this is, it's not prices, it's not units of cargo moving, it's just an index which arbitrarily uses 1978 as a base. It doesn't tell you that a rate is reasonable or unreasonable. All it shows you is trend lines as to what's happening. We'll convert this into specifics in a moment, but I think that it's important that you understand what's going on in the trade.

With 1978 as a base for rates, capacity and cargo available, that's your "100," your red line up at the top is carrier container capacity in the trade; your purple line in the middle is the cargo that's moving; and, of course, once you get to 1984 it becomes a projection because you don't know that for sure. I would say to you that the capacity index is probably pretty accurate because people know what ships are being built, what's going to come on line. Cargo available gets to be more of a guess as you go farther to the right, but it's based upon people like Chase Manhattan Bank's estimates and things of that sort. The rate index we don't purport to project past 1984. But, as you can see, this rate index, which is a conglomerate of all the rates, an average if you will, has fallen below 1978, 1979, 1980, 1981 and 1982 levels. They're at all-time lows on average.

That doesn't tell the whole story because on the major moving commodities—oh, I've got another little handout on this, if I may give it to you. This we have given to the Commission, but this is an updated version. It takes it to 1985 instead of 1984. Working from this larger chart, this takes major moving commodities, in this case it's 43 percent of the westbound trade as of 1984. These commodities were selected because of volume of tonnage of the particular commodity moving,

they weren't selected because there's anything in particular about the rates, although in fact these major moving commodities tend to represent the low end of the rate spectrum.

As you can see, and this is not adjusted for inflation now, you take commodities like wastepaper and cotton which we heard about, wood pulp, we're going to come to lumber separately, in 1979 rates on wastepaper to Japan has suffered a 70 percent decline. As you go down this list of the major movers, particularly on west coast rates, you see that the rates of decline are absolutely enormous. Again, that doesn't tell you that the rate in 1979 was a reasonable rate, and this one is unduly low, but again in trendline this is what the carriers have actually experienced. So, you're talking about extreme declines of rate levels.

Senator PACKWOOD. And you're saying this is the decline based solely upon the over-capacity and the competition among the lines?

Mr. FISHER. I'd say yes, but it depends upon when you're talking about. Let's go back here. Good point. It does reflect both effects. You're talking here much of the new capacity is people who were non-conference carriers, and still are in many cases. So, yes, I would say competition is the main factor.

As you know, in approximately 1983 or 1982 the conference structure began to collapse. It died before it knew it because it continued to hobble along for a while. But, where the old conference structure essentially died was about in here, the TWRA agreement was formed in the sense of first negotiations about in here, it was finally filed with the FMC about in here and became effective about here. That timing I think is significant. It represented an act of economic desperation by the carriers, if you will, because during this period right here in mid-1983, 1984, five carriers in our trade went bankrupt or withdrew, some large ones, some small ones.

I'm not at liberty to tell you some of the internal economic data I know about carriers, but I can tell you this: I am aware personally of ten carriers who in the trans-Pacific trade on a round trip basis have lost substantial sums of money, in the millions of dollars per year, during this period. Some of those carriers are former conference outsiders, some are conference carriers. By the way, one of the carriers who went bankrupt this year was one of our members. That all occurred in this period. It's not unrelated to this trend line. Obviously, the trend line, if you did it for these major moving commodities, would put the rates way down here.

These are the ones, by the way, we're getting the complaints about because of the \$800 minimum rate, because when you drop the rates this fast, you get, by definition, a large percentage increase when you increase them again. If you start with zero, a \$1 increase is a 100 percent increase—or a million, I get these statistics confused. But, the point of fact is percentage increases become very large if you start with rates that are way down below cost, here, from the carrier's standpoint.

I'd like to make one other point quickly, moving on. Taking this same chart and looking at it in terms of 1985 dollars, just to show you what the carriers are facing, what I've done here or, more accurately,

had somebody do for me, is I've stated these rates here in the 1979 column in 1985 dollars using a standard deflator methodology. What you can see there by looking at the right-hand column is that your percentage declines on major moving commodities in the westbound trade from the west coast range from a 37 percent decline at best to an 81 percent decline on some of the top movers. Again, it doesn't tell you any particular rate is reasonable or proper, but it tells you something very drastic and severe has happened to carrier economics in this trade.

Now, a reference was made to cotton by I think Chairman Green or one of the other speakers. Mr. Thomas Smith, President of Calcot, Ltd., in an article he published very recently I'd like to submit, said: "Currently, we have the lowest freight cost for shipping cotton to the Far East in over 30 years." He's not allowing for inflation. So, the situation from the carriers' standpoint is every bit or more desperate than what the lumber shippers have told you is their case.

It may very well be possible, Senator, that everybody in this room has some degree of right about his position, maybe a great deal of right. It may well be, I'm not in a position to challenge since it's their business, that the lumber shippers are facing severe economic difficulties. It is also true that the shipping carriers are facing severe economic difficulties.

I don't think I need to tell people at the Commission because they've told me themselves, when we went in to talk about all the outside competition that was available, some members of the Commission staff said, yes, but they're about to go out of business, you can't count those as real competition. My point is that our industry is every bit as precarious, and perhaps more so than the forest products industry that you're hearing from today. It doesn't mean they don't have a sad case to tell. It also doesn't mean we don't have a sad case to tell. They're talking about survival, we're talking about survival.

Now, I said I'd talk about lumber, and——

Senator PACKWOOD. I'm going to have to ask you to abbreviate as best you can, because I've got to get these other witnesses on.

Mr. FISHER. Okay. This is going to be a real quickie, then. This chart, and I'll give you one to take back, shows the recent decline of lumber rates from levels at just below \$1,500 a box to current levels at about \$580. Cargo moved in significant quantities at these higher levels. It has moved, interestingly, almost without reference to what the ocean shipping rates have been historically.

I have one or two more documents I'd like to give you and I will go on. This document I'd like you to take a good close look at. Again, like all analyses —

Senator PACKWOOD. Mr. Fisher, I want to come back again to time. I'm leaving here at 11 o'clock.

Mr. FISHER. This shows you lumber rates and lumber quantities moving over time. We've been told that lumber rates from other countries to Japan put the U.S. at a disadvantage. Here's what they look like from Europe to Japan in container mode of carriage, \$4,040 for a 40-foot container from Sweden and Norway, \$4,800 from Finland.

The next document, some comparative freight rates. Mr. Gottshall will address these further. I'll just hand them to you at this time. I'll show you what inbound rates on hardwood look like by comparison to those being complained of here.

I think the time has come to stop paying attention to pieces of paper. I'd like to turn the meeting over to Mr. Gottshall to describe his position. He is the chairman of the Transpacific Westbound Rate Agreement and is director of pricing, Transpacific Services, for Sea-Land.

[The information referred to follows:]

NON-TWRA LINER RATES ON LUMBER TO JAPAN

From Oslo, Norway & Gothenburg, Sweden to Japan: \$2,020 per 20' container; \$4,040 per 40' container.

From Helsinki, Finland to Japan: \$2,420 per 20' container; \$4,880 per 40' container. (Far East/Europe Freight Conference Rates).

REVENUES ON WESTBOUND TRADE MAJOR MOVING COMMODITIES REPRESENTING 43 PERCENT OF TRADE AS OF 1984

[In 40-foot units]

	West coast rates	1979 revenue	1985 revenue	Percent decline
Wastepaper:				
Japan		\$1,497	\$450	-70
Korea		1,513	450	-70
Cotton:				
Japan		2,460	500	-80
Korea		2,271	959	-58
Hides:				
Japan		1,341	800	-40
Korea		1,549	751	-52
Hay Cubes: Japan.....		1,396	475	-66
Woodpulp:				
Japan		1,162	1,153	-.1
Korea		1,207	1,064	-12
Scrap Metal:				
Japan		1,950	485	-75
Taiwan		1,881	600	-68
Milk carton stock: Japan.....		1,933	1,377	-29
Oranges: Japan.....		4,370	2,680	-39
MLB:				
Resin:				
Japan		2,701	2,310	-14
Hong Kong.....		2,508	1,350	-46
Taiwan		2,398	1,400	-42
Korea		2,492	1,200	-52
Cotton:				
Japan		2,602	1,792	-31
Korea		2,397	1,937	-19
Wastepaper:				
Japan		2,424	1,510	-38
Korea		2,377	1,425	-40

REVENUES ON WESTBOUND TRADE MAJOR MOVING COMMODITIES REPRESENTING 43 PERCENT OF TRADE AS OF 1984

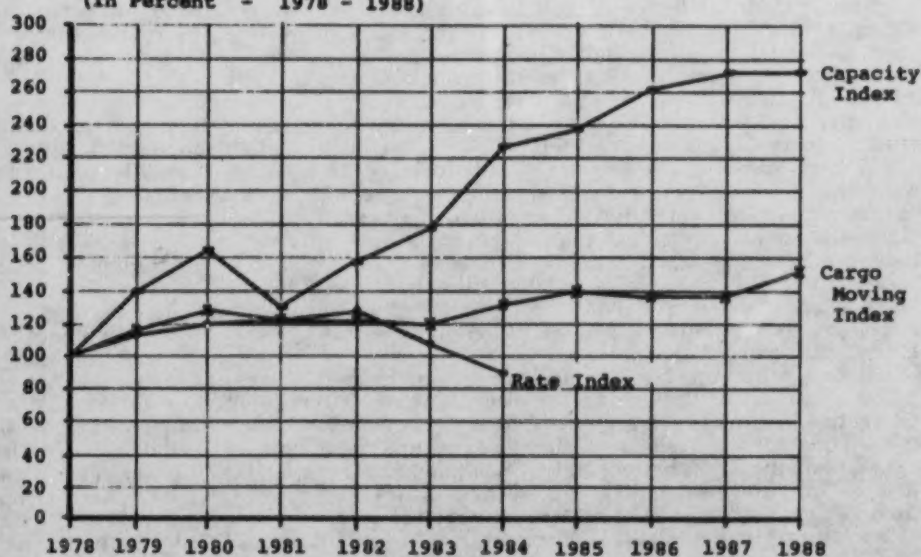
[In 40-foot units and in 1985 dollars]

West coast rates	1979 revenue	1985 revenue	Percent decline
Wastepaper:			
Japan	2,352	\$450	-81
Korea	2,378	450	-81
Cotton:			
Japan	3,866	500	-87
Korea	3,569	959	-73
Hides:			
Japan	2,107	800	-62
Korea	2,434	751	-69
Hay Cubes: Japan	2,194	475	-78
Woodpulp:			
Japan	1,826	1,153	-37
Korea	1,897	1,064	-44
Scrap metal:			
Japan	3,064	485	-84
Taiwan	2,956	600	-80
Milk carton stock: Japan	3,038	1,377	-86
Oranges: Japan	6,867	2,680	-61
MLB:			
Resin:			
Japan	4,244	2,310	-46
Hong Kong	3,941	1,350	-66
Taiwan	3,768	1,400	-60
Korea	3,916	1,200	-69
Cotton:			
Japan	4,089	1,792	-56
Korea	3,767	1,937	-60
Wastepaper:			
Japan	3,809	1,510	-60
Korea	3,735	1,425	-62

WESTBOUND TRADE

INDEX - CARGO MOVING/CAPACITY/RATE

(In Percent - 1978 - 1988)



x Cargo Index

= Capacity Index

• Rate Index

INBOUND FAR EAST/U.S. WEST COAST RATES (HARDWOOD)

From Indonesia/Malaysia to U.S. West Coast: \$2,140 per 40' container.

From Singapore to U.S. West Coast: \$2,756 per 40' container.

From Thailand to U.S. West Coast: \$2,747 per 40' container.

Comparative freight rates

Rail:	US\$/MBM
Pacific Northwest to Los Angeles	123.11
Pacific Northwest to New York	220.05
Container:	
Pacific Northwest to Tokyo	¹ 39.73
Do.....	² 54.79
Do.....	³ 58.49
New Zealand to Tokyo.....	148.19
Scandinavia to Tokyo	273.97
British Columbia to Tokyo.....	¹ 47.33
Do.....	² 54.79
Do.....	³ 58.49
Breakbulk: Vancouver, B.C. to Tokyo.....	⁴ 55.00

¹ Current.

² 3/20 minimum.

³ 6/20 minimum.

⁴ Berth terms.

THE DEVASTATING STRONG DOLLAR

(By Thomas W. Smith, President of Calcot, Ltd.)

The United States raw cotton industry and the U.S. textile industry have a common problem—both are being devastated by the super strong dollar and very few people in Washington seem very concerned about the life and death struggle in which we are engaged.

In fact, some top government officials actually cite advantages the strength of the dollar has given American buyers in the world marketplace, thus allowing a higher standard of living than otherwise justified. They point out the dollar's rise over the past four years has slowed the general increase in the level of consumer prices and lowered the current rate of inflation. Martin Feldstein, the former Chairman of the president's Council of Economic Advisors, in a recent article pointed out, "The principal benefit of the strong dollar has been an increased capital inflow from abroad." He goes on to say that our enlarged trade deficit has to be paid for, and only a small fraction of it can be financed by our exports of services and by earnings on our net overseas investments. Mr. Feldstein says, "The rest of the trade deficit has to be financed by a net inflow of capital to the U.S."

I wonder if Mr. Feldstein ever stopped to think that if the dollar had not gotten so strong, we would not have imported all the cars, textiles, steel, wine, etc., that we have. In fact, if the strong dollar had not made foreign product prices so cheap, we could have manufactured these same products in the U.S., providing jobs for U.S. citizens. If this had been the case, coupled with normal exports of agricultural products at normal prices, we would not have increased the trade deficit from some \$25 billion to over \$125 billion, and the budget deficit, instead of being over \$200 billion, might have stayed in the \$40 to \$60 billion range. After all, increased employment would have lowered government spending on unemployment benefits, and normal agricultural prices would have generated from taxes collected from additional employees working, additional manufacturing plants running, and farmers selling their products at profitable prices instead of the below-cost prices that have been necessary to offset the increased dollar value in overseas markets.

Obviously, the strong dollar is not just affecting cotton growers and textiles. Its negative impact is being felt by all of agriculture, and by practically every phase of U.S. manufacturing.

The only difference between agriculture and manufacturing, as far as the strong dollar is concerned, focuses on the issue of price. If textile prices go below cost of production, you close down plants. The same is true for other manufacturing industries. Unfortunately, some of your plants (and plants in other industries) have closed permanently. This production has moved overseas and may never come back to the United States. In the case of agriculture, the plant can't be closed down; therefore, production has to be sold at whatever price it will bring because the risk of storing products in a period of uncertainty is just too great. Due to the high fixed

cost in land (obviously since land can't be moved), U.S. agricultural production won't go overseas. Unfortunately, we will see different people doing the production because many producers won't survive the current situation.

In the case of cotton, we have taken a triple whammy from the strong dollar:

1. Cotton prices have dropped about the same amount as the dollar has increased. This has been necessary to sell cotton in foreign markets. Lower prices are the major reason U.S. export sales have been so strong. Another reason for strong exports is that freight rates, particularly to the Far East, have dropped dramatically. Ironically, the reason for the drop is because so many container ships are being loaded with goods coming into the U.S., and with the small amount of U.S. exports, many containers are being returned empty. Shipping lines are competing for anything to generate some revenue on containers returning to the Far East. Currently we have the lowest freight cost for shipping cotton to the Far East in over 30 years. Rates are about one-third of the cost for us to ship cotton to your textile plants.

2. The second whammy we have taken is the net loss of over 2½ million bales of our traditional domestic market due to the additional imports of textiles and apparel. You know the story only too well, and if these imports continue to increase, cotton's market loss will continue to increase.

3. The third and most damaging factor to cotton prices in the long run is the advantage the strong dollar is giving to foreign cotton growers. They are increasing plantings because cotton prices in terms of their currency have not declined. Past experience tells us that once foreign cotton production is developed, it won't go away quickly.

I am sure you are asking, just as we are, how we got into this intolerable situation. From my perspective, it has been a case of too many people trying to go in different directions with U.S. economic policy. The Department of the Treasury and President Reagan held strong opinions that personal income tax rate reductions, with limits on the growth of federal spending, would stimulate economic activity to the extent that additional taxes would be generated and eventually the deficits would be eliminated. But key White House staff members, the Office of Management and Budget, and the Council of Economic Advisors at times did not share this view and, with the strong commitments, made to increase defense spending, thought tax increases were the only way the budget deficits could be covered. The Federal Reserve Board generally thought the tax cuts would produce large budget deficits and saw their role as keeping a tight grip on the nation's money supply in order to prevent inflation. The result has been economic chaos brought about by high real interest rates which have made the dollar super strong. U.S. agriculture and manufacturing industries have to bear the brunt of the Administration's failure to coordinate economic policy.

This failure also comprises a real threat to the world financial system. Many leading economists state that as prices come down in oil and commodities, it creates financial pressures on the lesser developed countries, making them unable to pay back their debts which will threaten the entire U.S. economy. They point out it will be necessary to get the dollar down in order to assure U.S. economic expansion. The strong dollar is serving as a barrier to re-energizing the U.S. economy. If changes are not made soon, the world could succumb to the deflation threat.

However, very few in Washington seem too concerned; the general response is that agriculture and manufacturing need to increase productivity to compete in world markets. I won't repeat my response when I hear the "increase productivity" cry, but I would like to point out that: American agriculture has increased its output more than 60 percent since 1950, and productivity per hour worked has increased more than three times faster than industrial productivity per hour worked. A recent Citicorp study of 11 developed countries manufacturing productivity and labor cost from 1980 to 1983 shows that seven of the countries would have lost competitive ground against U.S. exports until foreign unit labor costs were expressed in U.S. dollars. Then all showed substantial competitive gains against the U.S. Actually, textile productivity in the U.S. has increased even faster than manufacturing in general due to the over \$1 billion per year the industry has spent over the past two decades on state-of-the-art machinery.

The "you must increase productivity" slogan just doesn't wash with either U.S. agriculture or U.S. manufacturing, and particularly the U.S. textile industry. The plain fact is that due to the super strong dollar, U.S. agriculture and manufacturing industries are spotting competition a 40 percent head start in a competitive race, and that is just too much to a head start to make up with increased productivity. Even James Flanigan, an economics writer for The Los Angeles Times who tries to make the case that a strong dollar helps more than a weak one, admits that, "U.S. manufacturers are up against it trying to compete with foreign goods in this

market, to say nothing of export markets and U.S. farmer, their output priced out of foreign markets by the strength of the dollar, must continue to rely on U.S. government subsidies." That is quite an admission for someone who thinks the U.S. economy is better off with a strong dollar.

I don't think I have to go further to convince you that cotton growers and textile mills are in the same boat. We are in the economic river filled with strong dollar currents and the deflation falls are just ahead. What can we do to change the situation?

Our government has already demonstrated it is not going to listen to concerns expressed by just one industry. You have found that out. So have steel, copper, shoes, wine, and many other industries. I am not sure this Administration will ever move to install restrictions strong enough to effectively limit imports as long as the dollar is as strong as it is. I applaud your efforts to get more realistic country-of-origin rules imposed. Your "Crafted With Pride" campaign is certainly a step in the right direction. However, the strong dollar is just like a huge magnet hovering over the entire United States. It tends to pull everything in and tries not to let anything out. In my opinion, both of our industries are headed for disaster unless something is done soon to change the situation.

I strongly believe that U.S. manufacturing and agriculture should form a coalition with the sole purpose of getting the dollar back to a realistic value. The National Council of Farmer Cooperatives has already started bringing together a number of agricultural organizations and has called on the President to establish a special bipartisan commission to develop a consensus for reducing the federal budget deficit. I would like to see someone get U.S. manufacturing groups together to join forces with agriculture to get the message across that the strong dollar is a serious threat to the entire U.S. economy.

I recognize that some economists will point out there isn't evidence of a direct link between large federal budget deficits, high interest rates, and a strong dollar. I will not argue that point, but as long as Paul Volcker is Chairman of the Federal Reserve Board, the argument is a moot one because he has already demonstrated he will keep a tight reign on the money supply as long as we have a large budget deficit, in order to control inflation. I can argue that a tight money supply coupled with low inflation does tend to keep real interest rates high, and high real interest rates do tend to keep the dollar abnormally strong.

Therefore, I believe an all-out assault should be made on reducing the federal budget deficit. This should be made with both the Administration and Congress.

In my opinion, the situation is serious enough that the Federal Reserve Board should immediately intervene by selling dollars in foreign exchange markets to help get the value of the dollar down and keep it down. The only problem I have is finding a way to lobby the Federal Reserve Board to do this. If you have any ideas on how this could be accomplished, please let me know. Our economic health depends upon getting changes made. I hope you will join in the effort to bring about the necessary change.

LUMBER TONNAGE, U.S. WEST COAST TO JAPAN/KOREA/TAIWAN/HONG KONG

(In metric tons)

	1979	1980	1981	1982	1983	1984	Current 1985	TWPA Min
Line:								
Japan	296,849	390,533	390,135	439,678	548,854	540,372		
Other	10,498	7,153	10,595	10,249	9,506	14,532		
Total	307,347	397,686	390,730	449,927	558,360	554,905		
Nonline:								
Japan	260,876	169,916	90,718	190,489	98,821	45,533		
Other	262	6,297	1,268	2,124	781	399		
Total	261,138	176,213	91,986	192,613	100,602	45,932		
Total	568,485	573,899	482,716	642,540	658,962	600,836		
OCEAN RATES TO TOKYO/NAGOYA—LUMBER (JANUARY)								
Tokyo	\$700/40 feet	\$350/40 feet	\$950/40 feet	\$1,400/40 feet	\$1,050/40 feet	\$750/40 feet	\$580/40 feet	\$900/40 feet
Nagoya	\$800/40 feet	\$1,050/40 feet	\$1,125/40 feet	\$1,580/40 feet	\$1,225/40 feet	\$950/40 feet	\$580/40 feet	\$800/40 feet

* \$1,400 equal 1,552 in 1985 dollars.

* \$1,580 equal 1,662 in 1985 dollars.

Tonnage source: U.S. Bureau of Commerce.

STATEMENT OF RONALD B. GOTTSALL, DIRECTOR,
PRICING, PACIFIC DIVISION, SEA-LAND SERVICES, INC.,
AND CHAIRMAN, TRANSPACIFIC WESTBOUND RATE
AGREEMENT

Mr. GOTTSALL. Thank you, Mr. Fisher.

Thank you, Senator, for the opportunity to be heard today and to perhaps give our perspective of the actions taken by the TWRA and the reasons for those actions. We'd also like to dispel, we would hope, some of the allegations that have been made, many of which are uninformed or misinterpreted.

First of all, I'd like to explain how I became chairman. Our agreement simply provides that a line shall be the chairman and chief spokesman for a period of 1 year. I was, at the time I thought fortunately, I now regard as unfortunately, elected as chairman.

I would also like to address another point brought up earlier about responses to people who have sent in messages, telex's and so on. Either I or the agreement administrator, Mr. William Anderson, responded to every one of these. I did, however, have two telex's from lumber people on which there was no identifying marks—I couldn't tell where they came from, not even a telex number or anything, and one from a cotton shipper. Those were not responded to simply because I didn't know where they came from. It's possible that the gentleman's was one of those. If it was, I would be glad to respond. But, there were three people I know of that were not responded to either by myself or by the agreement administrator. And the stack is about that thick (indicating approximately 2 inches), I didn't bring it along.

The rate actions have been discussed here. Over a period of years we have seen the rates drop on lumber from \$1,600 down to currently \$580. I am not going to sit here and bore you with cost details because I don't think they're relevant, but you cannot run an enterprise that has \$600 million in assets in the Pacific alone and get \$500 rates. I mean, if they cover variable costs, perhaps. The whole concept that somehow we can operate on a backhaul basis by giving rates that don't cover at least a portion of the fully distributed costs is erroneous.

Senator PACKWOOD. Let me ask you a couple of quick questions, then.

Mr. GOTTSALL. Yes, sir.

Senator PACKWOOD. If the bulk shippers come in and are undercutting your minimum rates, will you agree not to undercut them so that they can have some guarantee of carriage?

Mr. GOTTSALL. Well, if you notice, I have at least one chart I think that was given to you, the bulk people have been in at various times.

Senator PACKWOOD. But, what I want to make sure is if you get out of this, and if the lumber shippers say they can't make it at \$800 or \$1,000, and the bulk carriers come in at rates less than that, I want to make sure you're not going to undercut the bulk carriers if they do that.

Mr. GOTTSALL. I'm not sure I could reach that agreement. I think that's something that might be certainly a proposal and properly structured after I talk to counsel. But, I think that's—

Senator PACKWOOD. What you mean is you'll make your rates low enough to make sure that you can keep control of the trade if there's going to be any.

Mr. GOTTSALL. No, I think the problem, Senator, is that in the commercial world there is just a tremendous amount of leverage on the individual carriers. I mean, one shipper says, you know, if you don't do this I'm taking my business away and giving it to "X." You cave in. So, his competitor then hears about it and cuts the rate. It's not healthy competition, it's destructive competition.

I mean, if you take a look at the comparative freight rates on lumber alone, \$39 is the current rate and it's going to go to \$54, I think, per thousand board feet. My God, L.A. is \$123, if the quotes we got from the railroad are correct, it's \$220 to New York. Maybe it's less than that. But, certainly transportation is today a bargain, tomorrow it's a bargain and the day after that it's a bargain. It's one of the best bargains in the whole world today, transportation.

Yet there's a constant harping about how somehow we turn entire marketplaces, how we make markets. We don't. We react to whatever's in the market. If there are healthy industries there that are capable of competing in the marketplace, we can help them. We can't help unhealthy industries without hurting ourselves. Frankly, the—

Senator PACKWOOD. But, you'd be willing to hurt yourself rather than let the bulk carriers carry it?

Mr. GOTTSALL. I didn't say that.

Senator PACKWOOD. Well, what did you mean?

Mr. GOTTSALL. You asked me for an agreement. I said I couldn't make an agreement to that at this type of function. Certainly we could consider something. I don't know, once again I'd have to respond to counsel.

Senator PACKWOOD. Well, let me ask you the question in a different way. You cannot afford to carry lumber at \$400, \$500, \$600, \$700 a carrier?

Mr. GOTTSALL. Once you start getting out to—I'll tell you right now, at \$580, depending on the specific destination of the lumber—for example, with a lot of the lumber, it's become the practice in Tokyo in container carriage to provide store-door delivery. A lot of lumber goes to Chiba.

That's a \$200 dray. That's a direct, out-of-pocket expense.

Senator PACKWOOD. Well, let me come back to my question again. You cannot afford to carry it at the prices you're currently charging? You're losing money on it?

Mr. GOTTSALL. Right.

Senator PACKWOOD. All right.

Mr. GOTTSALL. In the longterm.

Senator PACKWOOD. You're losing money I assume in the shortterm, also.

Mr. GOTTSALL. Shortterm and longterm, yes.

Senator PACKWOOD. You're losing money day by day, week by week, month by month at this price. Do I presume, however, that you might be willing to carry it and lose money, rather than let some other competitors carry it? I mean bulk carriers.

Mr. GOTTSALL. I would venture to say that even at \$800 we're technically losing money, but we're recovering at least our variable costs. It's a contribution to overhead at that point. Right now it's marginal.

Senator PACKWOOD. Well, I think I've got the answer to my question.

Mr. GOTTSALL. Yes.

Senator PACKWOOD. Okay.

Mr. GOTTSALL. Whatever the question was.

Senator PACKWOOD. The answer is you're not going to let the bulk carriers in, no matter what.

Mr. GOTTSALL. No, I didn't say that.

Senator PACKWOOD. That's what you're saying.

Mr. GOTTSALL. I did not say that, Senator.

Senator PACKWOOD. That is what you're saying, and you know it and I know it.

Mr. GOTTSALL. Senator, I——

Senator PACKWOOD. Well, then, let's make the agreement that——

Mr. GOTTSALL.——this is not a forum for an argument.

Senator PACKWOOD.——you won't undercut them.

Mr. GOTTSALL. I can't do that.

Senator PACKWOOD. I know you can't. You won't.

Mr. GOTTSALL. No, I am one line who happens to be a chairman.

Senator PACKWOOD. Will you make it for your line?

Mr. GOTTSALL. I cannot make that agreement for my line right now.

Senator PACKWOOD. That's an independent action. You can make that agreement for your line.

Mr. GOTTSALL. This is not the forum in which we submit independent action, Senator. We don't submit them to the Senate, we submit them to the conference office.

Senator PACKWOOD. I understand.

Mr. GOTTSALL. Anyway, going through this, earlier there was a question of independent action, since we're on it, we have had during the month of February, after the Vancouver meeting when this alleged agreement took place, 1,076 independent actions. In the month of March, through the 11th, we had some 400 independent actions. Now, this does not include our rate initiative procedure which is sort of a modified independent action, and I haven't even bothered to add those up but a quick eyeball would say that would probably contribute another 900 or 1,000 actions. So, if there is this conspiracy that people keep talking about, it doesn't exist. It's simply something in the minds of people who have an objection to paying a fair share of their transportation costs.

You know, we talk about the profits of the eastbound trade. Right now the eastbound profits are declining, our ships are running light, the rates are falling eastbound. So, what are we supposed to do? We have to do something. As a group we're entitled to survive, just as the lumber people are. I think what we've had is a lot of bad press and we've had people politicizing these things.

Now, let me add another dimension to this, and I'll sum up very quickly because I know Mr. Rhein has a few words to say. There's another dimension. Consistently the Federal Maritime Commission has fought against rate regulation by foreign countries. They've taken a strong stand on Taiwan and their transportation law, when Taiwan tried to limit the amount of increase on exports from Taiwan, their national trade. From the Philippines, they threatened section 19 orders. The FMC recently wrote a letter to the State Department protesting the actions of the Korean Government in establishing minimums for cargo entering Korea.

So, all of these things, you know, have been constant opposition to rate regulation. Yet in the proceedings that the Commission has laid on us in this hearing today, what we're finding right now is the same thing that's been opposed by the Federal Maritime Commission is, in effect, being condoned by the U.S. Government and will be misread in every major Government of the world.

So, I think that there's a lot of things that obviously are very difficult to cover in a short time, and I think that would conclude my statement, Senator. Thank you.

Senator PACKWOOD. Mr. Rhein.

**STATEMENT OF TIMOTHY J. RHEIN, SENIOR VICE
PRESIDENT, MARKETING, AMERICAN PRESIDENT LINES**

Mr. RHEIN. Thank you, Senator.

I appreciate the opportunity to spend this amount of time with you and with this group, despite the fact that it has become apparently somewhat adversarial in nature. That doesn't bother me a bit because I think this is a very positive subject, a very important subject for both sides. I appreciate the opportunity to address you on this subject.

The lumber business to my company and to the TWRA is an extremely important piece of our business. For American President Lines alone, we've been in the lumber business in the Northwest for over 120 years, and hope to continue in the lumber business. We are fully sympathetic to the plight of the lumber industry in the Northwest today.

However, there are some facts that I think are worthy of your time and attention. You've seen the rate history on lumber. In a nutshell, it goes up and down like a yoyo over the years. It has wobbled around the \$1,000 level, it's been down to \$580, it's been up to \$1,500 over the past 10 years. Yet the volume of lumber moving from the Pacific Northwest to Asia, primarily Japan, has been flat. Earlier testimony by one of the lumber shippers indicated that if the rate were \$1,200 in a free market environment, he could move his lumber. Yet he can't move it at \$800. I fail to understand how that's possible.

The lumber competition as far as rates, Mr. Gottshall gave you a couple of numbers and there's a few more that you should be aware of. The Scandinavian rate he gave you, over \$4,000. From the U.S. Atlantic coast of the United States, the hardwood lumber and softwood lumber industry from the south Atlantic moves at roughly \$1,500 to Japan. Indonesia, it moves at \$1,000 in 400-foot containers; Philippines, \$1,100. The domestic rail rate, even under the Staggers Act, from the northeast part of the United States, is over \$2,000. Mr. Gottshall gave you the number to Los Angeles, which is a much shorter haul. The biggest bargain in lumber transportation in the world has been and continues to be the Pacific Northwest to Japan.

Number two, I'd like to move on to the carrier side of the equation. I'm willing to stick my neck out a little bit because I have access to the same documents everybody else in the room does, public documents of publicly-traded companies as far as their financial situation is concerned. It doesn't take a genius to add one and one to make two.

The cost structure of the carrier industry requires, all the carriers in the transpacific on a grossly homogenized basis, roughly \$2,000 to \$3,000 per container, per 40-footer, in order to break even. Now, don't ask me where I got it, don't ask me to defend it because I can't. It's just a number that's evolved in my head over the last 5 or 10 years, but it's pretty close to the facts. Now, it's very true the eastbound trade into the United States has been subsidizing the westbound. It has allowed what you refer to as the backhaul. Trade in the eastbound direction has been extremely strong in the last 2 or 3 years and has allowed that phenomenon to take place. That is rapidly changing, Senator.

Because of the attractiveness of the eastbound trade, the increase in tonnage and capacity that's being brought into the Pacific has created an over-tonnage condition today in the eastbound direction, which makes the westbound over-tonnage even worse. Roughly 35 to 40 percent of the capacity in the westbound direction is going unutilized today, roughly 20 percent eastbound.

So, the so-called rates in the eastbound direction that allow all the carriers to take \$500 cargo westbound is rapidly deteriorating, and my own instincts tell me that those rates will go down in the neighborhood of \$1,000 to \$2,000 very, very shortly. So, we are talking about the survival of another industry as well as the lumber industry.

Just being provincial for a second, the American flag industry, which I know you're vitally interested in, has dwindled in the past 15 years from 15 carriers to 4 in the Pacific.

Senator PACKWOOD. Let me ask you a question.

Mr. RHEIN. Please.

Senator PACKWOOD. If nobody's going to make it at \$400, \$500, \$600 or \$700 a container, why won't the free market, without this action of the conference, drive those prices up to \$1,000, or \$1,100 to \$1,200?

Mr. RHEIN. Eventually, it will.

Senator PACKWOOD. Well, then, why bother to file this action? Why bother to file this conference minimum fee?

Mr. RHEIN. We that have agreed to join this TWRA see an opportunity under the Shipping Act of 1984 to forestall some of the——

Senator PACKWOOD. Forestall some of what?

Mr. RHEIN. Some of the bankruptcies. We think the shipping public will be better served by responsible action now, as opposed to a situation that has existed in this trade in historical context where there wasn't enough capacity and there weren't enough lines.

If I may digress just for a second to your question on bulk carriers, I'd like to respond to that a little bit, too. The bulk carriers should come into this trade and we recommend that they do, because the bulk carriers' cost structure is different than ours. If they were to come into the trade, I can't, anymore than Mr. Gottshall, commit that we would not compete with them. We reserve the right to compete with anybody, as do you, as do the lumber shippers in the room. But, the cost structure I believe would prohibit us from competing with them, because we are prohibited by law from filing any rate that is below our variable costs. I'll be very honest with you, at \$500 we are right on the edge.

Now, what allows us to compete in that particular segment at \$500 is the fact we have to get our containers back to Asia, anyway. That phenomenon may disappear very shortly. As a matter of fact, it is disappearing, because the Asian market is flat, down, and there's much too much competition. So, a great deal of the carriers may be faced with the possibility of not having to move containers back to Asia.

Senator PACKWOOD. Let me ask you something else. Why wouldn't the same thing happen in the shipping industry that's happening domestically in the trucking industry with the advent of trucking deregulation, not less but more competition?

Mr. RHEIN. Well, in essence, that is what's happening, Senator.

Senator PACKWOOD. Is that bad?

Mr. RHEIN. No, no. In the eastbound trade in particular, there is more competition. The so-called conference structure that you referred to as a cartel controls less than 50 percent of the tonnage of the trade in the eastbound direction. It is that phenomenon, that circumstance, that condition, that has caused 19 carriers to realize that the horizon in the eastbound trade is going to be a disaster in the next two or three years.

Our business is cyclical, we acknowledge that. It's a cleansing cycle we go through. The realization of that by 19 carriers in the trade, which represent from 75 to 80 percent of the trade, we acknowledge that, is that unless some action is taken to increase the revenue to the carriers on the base commodities, of which lumber is only one——

Senator PACKWOOD. Some will go bankrupt.

Mr. RHEIN. ——some will go bankrupt.

Senator PACKWOOD. So what?

Mr. RHEIN. Well, that's self-interest.

Senator PACKWOOD. Some will go bankrupt.

Mr. RHEIN. Certainly.

Senator PACKWOOD. So we should guarantee they all stay in business?

Mr. RHEIN. They won't all. The efficient will survive.

Senator PACKWOOD. Well, the efficient will survive in a free market.

Mr. RHEIN. Yes, but they'll have a blood bath in the meantime.

Senator PACKWOOD. You know, I'm reminded of a statement Fred Kahn made, who was at one time Chairman of the Civil Aeronautics Board, but he presided over the airline deregulation. He was on a morning talk show about 6 months ago, and the host said, but, Professor Kahn, since deregulation some of the airlines have gone bankrupt. He said, precisely, that's what we intended. He said we did not want a system where the inept made some money and the very well managed made a lot of money. We wanted a system where the inept went bankrupt and the very well managed were forced to tougher competition.

In my experience in dealing with the transportation industry on the Commerce Committee, it doesn't matter if it's rail, truck, or planes, with maritime all we have other than inland transport is international, it has been my experience that anybody who transports anything, domestically or internationally, wants the Government to guarantee them a profit. We had to deregulate the airlines over the objections of the airline industry. We had to deregulate the trucking industry over the objections of the trucking industry.

But for the fact that the shipping industry makes the argument that we compete internationally and must compete on somebody else's playground and their rules, but for that you wouldn't have been granted the privileges of cartels in international shipping.

I see in your attitude the same attitude that I saw domestically with trucks and planes, and to some degree with rail where they have a monopoly situation. I've heard the arguments before that if we don't have Government protection and minimum rates, some of us are going to go bankrupt. The answer is yes and it would be a good thing for the economy.

Mr. RHEIN. Well, Senator, if I may, and I fully appreciate your comments, we're not afraid of competition, we're not afraid of deregulation. We believe that the majority of the carriers are efficient and effective. But, we also have a right to make a reasonable profit as well as everybody else, and if we can structure——

Senator PACKWOOD. But, you don't have the right for the Government to guarantee you a reasonable profit.

Mr. RHEIN. We're not asking for the Government to guarantee anything, Senator. As a matter of fact, we're asking the Government to allow us to function in the manner in which the law is written.

Mr. Gottshall made the statement that it's unparalleled from the FMC to get into ratemaking. Yet our Government violently objects to the fact that foreign Governments get into ratemaking, in the countries of Taiwan, the country of Korea, Sri Lanka, many others. Yet here we are doing the very thing that we criticize other Governments for, as a matter of fact prohibit them from doing in the international trade. All we're asking for is consistency.

We have legally formed an agreement, we have legally established rates. Independent action will happen, it'll happen soon. There's no way any of us would agree not to take independent action.

Senator PACKWOOD. And despite comments to the contrary, there has been no covert, overt, winked-at or otherwise agreement to try to at least coerce, prohibit, or discourage independent action?

Mr. RHEIN. I would say that there is an understanding that independent action should not be used unless a carrier feels he has to use it.

Senator PACKWOOD. What does that mean?

Mr. RHEIN. That means that they will use it if it suits them. It's already happening. It's already happening. Mr. Gottshall gave you the statistics, Senator. There's been over 1,500 since the agreement was formed.

Senator PACKWOOD. Well, let me ask you, if it's going to happen, what's the point of the agreement?

Mr. RHEIN. Well, the agreement gives us, as you know, a legal right to sit and talk to each other.

Senator PACKWOOD. Yes.

Mr. RHEIN. Antitrust immunity.

Senator PACKWOOD. Yes.

Mr. RHEIN. And to post rate increases or other terms of the agreement. Now, you can't chisel them in stone. They're going to move. The rates are going to move up and down. They have historically. All we're trying to do as an agreement is raise the level of rates on the lowest-rated commodities to a level in which we can at least make a few dollars to contribute to our fixed costs.

Senator PACKWOOD. Do you think that concerted action will cause the rates to be higher than they would otherwise be without the concerted action?

Mr. RHEIN. Certainly. Now, there is a problem. I don't mean to take too much of your time, I realize you're on a tight schedule. But, there are two problems that I think have been presented here. One, of course, has been clearly stated by the lumber industry, and we recognize that and understand that. In addition, I hope that we have explained clearly that there is a problem in our industry, as well. Many carriers are breaking even at best, and many are losing money. The lowest rates in lumber are on the books today. We must be concerned, as well, with our own industry, and we would ask your understanding in that regard.

The Shipping Act of 1984 offered many new opportunities to both the shippers and the carriers. The TWRA was formed, despite 33 percent over-tonnaging, in full compliance with the Shipping Act and the result is a posted revenue increase. It's not unexpected, not unanticipated. Many of the lumber shippers told us many, many times they don't understand why the rates are as low as they are. It's insanity.

Senator PACKWOOD. Let me say again I know what the Shipping Act does. I was one of the authors of it. You were given this anti-trust exemption because of the unique argument about being in international

trade, and you were given that privileged position that you would not have been given had you been solely involved in interstate commerce within the boundaries of the United States.

Mr. RHEIN. That's correct. I understand that.

In a nutshell, Senator, our industry is doing something we've been encouraged to do for many, many years. How long it lasts, I don't know. We've been encouraged by the Government, by the Federal Maritime Commission, by the Maritime Administration, to behave ourselves more intelligently, more maturely, more rationally. The fact that we have done that—up to a point, and I don't know how long it will last, I've been in this business for 20 years and I have yet to see anything of this nature last very long—has caused a furor because of one or two industries. We're fully sympathetic to that.

However, the fact that there's a problem in the lumber industry, while we sympathize with it, I do not believe it's the cause of or is caused by our rate structure, whether it's \$500 or \$800, Senator. The rates from all other sources in the world are higher than our rates on lumber. What I submit to you, sir, is that the problem is much deeper seated than our lumber rates. You heard it yourself and you acknowledged that it's the exchange rate; the fact that the Canadian dollar is at 70 or 75 cents, the fact that Canadian lumber may be subsidized by the Canadian Government, that they're better integrated, and I'm not saying there's anything wrong with our industries, but some of the other lumber industries in the world, including Canada's, may have caught up with us. Yet we have other industries in the United States such as footwear, garments, steel, automobiles, and yet we carry all of that in the eastbound direction and we haven't heard word one from our Government as to why we don't raise the rates to stifle that competition.

I submit that the Government is in the throes of interfering in international business, in a legitimate ratemaking body under the auspices of the Shipping Act of 1984. We think that that's a precedent that bodes poorly for all of us, both the lumber industry and the carrier industry.

Thank you.

Senator PACKWOOD. Thank you.

Could I ask the representative of the Y.S. Lines if you would like to say something? Y.S. has been very good about consistently serving Portland, and I appreciate it.

STATEMENT OF TOSHIHIKO KOWATARE, REPRESENTATIVE, Y.S. LINE

Mr. KOWATARI. Thank you, very much, Senator Packwood. I'm very glad to be coming to the historical hearing here. I am Toshihiko Kowatari. I am staying in Seattle about 4 years. I represent Y.S. Line.

We have lots of interest in carrying lumber shipments from this area to Japan. We are one of the subcommittee members of the lumber items in TWRA. So, I am coming to this meeting. I would like to say our owner's desire is revenue recovery because of lots of loss happening

between the Far East and the U.S. trade in ocean freight. So, I would like to say we would like to balance the degrees of loss of our income or revenue.

Thank you, very much.

Senator PACKWOOD. I might note that you're wearing Port of Portland tie.

Mr. KOWATARI. Yes, that's right.

Senator PACKWOOD. Gentlemen, anything else?

Mr. Fisher. Thank you, very much, Senator.

Senator PACKWOOD. Thank you. We are adjourned.

(Whereupon, at 11:00 a.m., the hearing was adjourned.)

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

ITT RAYONIER INC.,
NORTHWEST REGIONAL OPERATIONS,
Seattle, WA, March 11, 1985.

Hon. ROBERT PACKWOOD,
Federal Building,
Portland, OR.

DEAR SENATOR PACKWOOD: Please enter the following statement into the record for the referenced hearing.

ITT Rayonier is a major shipper of woodpulp and lumber from the United States to the Far East. ITT Rayonier strongly protests the unjustified rate increases of the Trans-Pacific Rate Agreement. These increases will seriously impact our ability to compete in Far East markets.

As you are aware, these increases are sudden and substantial. Up to the day before the increases were announced, carriers were offering to lower their rates to attract our cargo. Now, after we established sales strategy accordingly, we are facing increases of 20% for woodpulp and 40% and more for lumber.

If these increases are allowed, Rayonier will face a \$1.8 million increase in annual freight costs. The U.S. forest products industry is currently requiring concessions from employees and vendors as we try to compete in the world markets, fighting the strong dollar and foreign subsidization. Producers, including ITT Rayonier, are being forced to shut mills down. Employment has fallen by 15-20,000 jobs in Washington alone over the past few years. To allow this increase, which is not representative of the current freight market, but is only possible because of cartel-like powers granted by congress, at this time is inappropriate and unjustifiable.

Therefore, ITT Rayonier in the strongest terms possible requests the committee to take action to block this increase, which fails to take into account all underlying and resulting effects.

Respectfully,

FRED PASQUALE, *Transportation Manager.*

GORDON INTERNATIONAL, INC.,
Portland, OR, March 14, 1985.

Hon. Senator BOB PACKWOOD,
Portland, OR.

DEAR SENATOR PACKWOOD: My company is one of many in Oregon involved in the export of Oregon and U.S. produced food and feedstuffs. We find the recent rate increases by the TWRA are unreasonable and harmful to the agricultural and trade interests of Oregon and the United States.

As long as I have been connected with the pulse and feed industry our products have been essentially open-rated and utilized by the steamship lines for means of returning containers to the Pacific Rim to provide equipment for more lucrative inbound cargoes. We also recognize that rates had generally kept pace with supply and demand in the import-export cargo and steamship capacity markets. When exports were strong in the 1970's rates increased and have generally fallen since 1981 (with a brief increase in 1982-1983) because of a large imbalance in favor of imports caused by the overwhelming strength of the U.S. dollar. In these cases, increase or decreases were reasonably adjusted and generally understood given the vessel space availability in the steamship trade.

The increase only recently postponed would have represented an increase of 87.5 to 108 percent on the pulse and feed products our firm deals in. The scaled back minimum rates of USD600 per 20 foot container and USD800 per 40 foot container are still increases of 50 to 67 percent. Moreover these increases are being proposed at a time when the Pacific Rim carrier trade is at serious overcapacity and is in the midst of further additions to the fleets of several lines.

Increases like these are harmful to our effort to export Oregon and U.S. products which counterbalances our massive trade deficit and helps maintain jobs for thou-

sands in the farming, supply, transportation, and marketing business. We find it already difficult to be competitive because of the adverse effect of the strong U.S. dollar. Ironically, the lines benefit by the strong dollar making a major portion of their profits on imports. However, by further increasing the cost of our products with these increases we become uncompetitive against production in Australia/New Zealand/Argentina/Burma/EEC countries/and even Canada due to the relative weakness of the Canadian dollar and the favorable freight subsidies offered by the Canadian government. Our company is prepared to present evidence to the FMC showing definite harm to the following products: Austrian Winter peas, Baby Lima Beans, and Millet, all of which are imported in the Pacific Rim and are now competing unsuccessfully against products from other origins.

Basically we feel that the American agricultural economy is already depressed enough without this further potential damage. While we cannot maintain this decrease in exports will result in as many job losses as in the Oregon lumber industry we do know it will be felt in Eastern Oregon and in Portland, the hub of transport for Oregon products.

Essentially because we are a trading company and familiar with market economies we can usually adjust to increases. However, this increase is not justified and unreasonable in light of the overcapacity in the vessel space to the Pacific Rim. In fact we submit that this rate action is in direct contradiction of the Shipping Act of 1984 in its setting of minimum rates which effectively deprive the member lines and the shipping public of the right of independent action. As such it definitely harms the trade interests of the United States.

On behalf of our firm and the agricultural export community we request that the FMC be asked to rule whether independent action has been deprived and, if so, that the FMC request the lines to rescind the minimum rates and allow independent action between carriers and shippers. Should this action not be taken by the carriers we intend to petition the FMC for an injunction against the TWRA lines and have already informed the FMC of our intent to do so.

We thank the Senator for his attention to this issue and also for conducting this hearing allowing our position to be made clear.

Sincerely yours,

JEFF D. PRICCO, Vice President.

PORT OF SACRAMENTO, March 11, 1985.

Senator BOB PACKWOOD,
Senate Commerce Committee,
Washington, DC.

HONORABLE GENTLEMAN: I understand that the Senate Commerce Committee will hold a hearing on March 14 in Portland, Oregon on the plans of the Transpacific Westbound Rate Agreement (TWRA) to modify their rate structures. I understand, too, that Chairman Green will testify at that hearing.

The plan of TWRA was to institute a minimum rate per container. In the recent past, with the strong United States dollar leading to a surplus of imports the container carriers have slashed their westbound rates to entice any cargoes they could glean rather than return empty containers. In that process they have lured customers from other cargo handling methods. On the surface this type of competition would seem to be healthy and in the best interest of the customer.

However, it is necessary to look a little deeper to realize the full significance of the action that has been taken in the past. One example is the movement of alfalfa cubes moved through this Port in bulk. We have developed sophisticated facilities for handling this commodity (and others) in bulk to achieve maximum cost savings. The cut rates offered by the container carriers have siphoned off this business with an artificially low rate structure. The question that is left is what will happen to these shippers when the container carriers have the opportunity for more remunerative cargoes. Past experience says loud and clear that the bulk cargoes will be shut out. There are many other examples that could be cited of cargoes similarly situated.

It seems to me that the opportunistic approach of the carriers in offering artificially low rates should not be fostered. Now that the carriers want to return to reality, I would hope that you will support that effort rather than present any obstacles to the return to normalcy.

I ask that this letter be made part of the record of the hearing.

Sincerely,

MELVIN SHORE, Port Director.